



---

Volume 37 (2007)

Pennsylvania Bulletin  
Repository

---

11-10-2007

## November 10, 2007 (Pages 5965-6096)

Pennsylvania Legislative Reference Bureau

Follow this and additional works at: [https://digitalcommons.law.villanova.edu/pabulletin\\_2007](https://digitalcommons.law.villanova.edu/pabulletin_2007)

---

### Recommended Citation

Pennsylvania Legislative Reference Bureau, "November 10, 2007 (Pages 5965-6096)" (2007). *Volume 37 (2007)*. 45.

[https://digitalcommons.law.villanova.edu/pabulletin\\_2007/45](https://digitalcommons.law.villanova.edu/pabulletin_2007/45)

This November is brought to you for free and open access by the Pennsylvania Bulletin Repository at Villanova University Charles Widger School of Law Digital Repository. It has been accepted for inclusion in Volume 37 (2007) by an authorized administrator of Villanova University Charles Widger School of Law Digital Repository.

# PENNSYLVANIA BULLETIN

Volume 37  
Saturday, November 10, 2007 • Harrisburg, PA  
Number 45  
Pages 5965—6096

## Agencies in this issue

The Courts  
Department of Agriculture  
Department of Banking  
Department of Environmental Protection  
Department of Revenue  
Department of Transportation  
Environmental Hearing Board  
Environmental Quality Board  
Health Care Cost Containment Commission  
Insurance Department  
Pennsylvania Intergovernmental Cooperation  
Authority  
Pennsylvania Public Utility Commission

**Detailed list of contents appears inside.**



PRINTED ON 100% RECYCLED PAPER



**Latest Pennsylvania Code Reporter  
(Master Transmittal Sheet):**

**No. 396, November 2007**

CUT ON DOTTED LINES AND ENCLOSE IN AN ENVELOPE

**CHANGE NOTICE**

If information on mailing label is incorrect, please make changes in space provided below and mail to:

**FRY COMMUNICATIONS, INC.**

**Attn: *Pennsylvania Bulletin***

**800 W. Church Rd.**

**Mechanicsburg, PA 17055-3198**

CUSTOMER NUMBER (6 digit number above name)

NAME OF INDIVIDUAL

OFFICE NAME—TITLE

ADDRESS (Number and Street)

(City) (State) (Zip Code)

TYPE OR PRINT LEGIBLY

**PENNSYLVANIA**



**BULLETIN**

(ISSN 0162-2137)

published weekly by Fry Communications, Inc. for the Commonwealth of Pennsylvania, Legislative Reference Bureau, 647 Main Capitol Building, State & Third Streets, Harrisburg, Pa. 17120, under the policy supervision and direction of the Joint Committee on Documents pursuant to Part II of Title 45 of the Pennsylvania Consolidated Statutes (relating to publication and effectiveness of Commonwealth Documents). Subscription rate \$82.00 per year, postpaid to points in the United States. Individual copies \$2.50. Checks for subscriptions and individual copies should be made payable to "*Fry Communications, Inc.*" Periodicals postage paid at Harrisburg, Pennsylvania.

Postmaster send address changes to:

**FRY COMMUNICATIONS**

**Attn: *Pennsylvania Bulletin***

**800 W. Church Rd.**

**Mechanicsburg, Pennsylvania 17055-3198**

**(717) 766-0211 ext. 2340**

**(800) 334-1429 ext. 2340 (toll free, out-of-State)**

**(800) 524-3232 ext. 2340 (toll free, in State)**

Orders for subscriptions and other circulation matters should be sent to:

**Fry Communications, Inc.**

**Attn: *Pennsylvania Bulletin***

**800 W. Church Rd.**

**Mechanicsburg, PA 17055-3198**

Copyright © 2007 Commonwealth of Pennsylvania

Editorial preparation, composition, printing and distribution of the *Pennsylvania Bulletin* is effected on behalf of the Commonwealth of Pennsylvania by FRY COMMUNICATIONS, Inc., 800 W. Church Road, Mechanicsburg, Pennsylvania 17055-3198.

# CONTENTS

## THE COURTS

**DISCIPLINARY BOARD OF THE SUPREME COURT**  
Notice of reinstatement ..... 5978

### JUVENILE RULES

Proposed amendments to rules 1320, 1324 and 1330 ..... 5976

### RULES OF CIVIL PROCEDURE

Order amending rules 1915.4-1 and 1915.4-2 and promulgating new rule of civil procedure 1915.4-3; no. 484 civil procedure rules; doc. no. 5 ..... 5974  
Order amending rules 1910.11 and 1920.31; no. 485 civil procedure rules; doc. no. 5 ..... 5976

## EXECUTIVE AGENCIES

### DEPARTMENT OF AGRICULTURE

#### Notices

Order of quarantine; revocation of plum pox virus quarantine in the Borough of Mount Holly Springs, Cumberland County ..... 6031

### DEPARTMENT OF BANKING

#### Notices

Actions on applications ..... 6031

### DEPARTMENT OF ENVIRONMENTAL PROTECTION

#### Notices

Applications, actions and special notices ..... 6033  
Availability of technical guidance ..... 6078  
Bid opportunities ..... 6079  
NPDES permit application no. PAI023907014; notice of public hearing ..... 6079  
New or innovative water/wastewater technology grants through the Growing Greener Program; application deadline extension ..... 6080

### DEPARTMENT OF REVENUE

#### Notices

Pennsylvania Go For The Gus Dough instant lottery game ..... 6080  
Pennsylvania Moolah instant lottery game ..... 6083

### DEPARTMENT OF TRANSPORTATION

#### Notices

Application for lease of right-of-way ..... 6084

### ENVIRONMENTAL HEARING BOARD

#### Notices

Pocono Township v. DEP; EHB doc. no. 2007-240-L . 6084  
Upper Gwynedd Township v. DEP; EHB doc. no. 2007-235-MG ..... 6085

### ENVIRONMENTAL QUALITY BOARD

#### Rules and Regulations

Administration of the storage tank and spill prevention program ..... 5979

### HEALTH CARE COST CONTAINMENT COUNCIL

#### Notices

Request for proposal ..... 6085

### INDEPENDENT REGULATORY REVIEW COMMISSION

#### Notices

Notice of comments issued ..... 6085  
Notice of filing of final rulemaking ..... 6087

### INSURANCE DEPARTMENT

#### Notice

Application for approval to acquire control ..... 6087  
Erie Insurance Exchange; private passenger auto insurance rate and rule revision; rate filing ..... 6087

### PENNSYLVANIA INTERGOVERNMENTAL COOPERATION AUTHORITY

#### Notices

Financial statement ..... 6088

### PENNSYLVANIA PUBLIC UTILITY COMMISSION

#### Statements of Policy

Customer assistance program ..... 6022

#### Notices

Service of notice of motor carrier applications ..... 6093  
Sewer service ..... 6095  
Telecommunications ..... 6095

---

**Now Available Online at <http://www.pabulletin.com>**

---

# READER'S GUIDE TO THE PENNSYLVANIA BULLETIN AND PENNSYLVANIA CODE

## ***Pennsylvania Bulletin***

The *Pennsylvania Bulletin* is the official gazette of the Commonwealth of Pennsylvania. It is published every week and includes a table of contents. A cumulative subject matter index is published quarterly.

The *Pennsylvania Bulletin* serves several purposes. First, it is the temporary supplement to the *Pennsylvania Code*, which is the official codification of agency rules and regulations and other statutorily authorized documents. Changes in the codified text, whether by adoption, amendment, repeal or emergency action must be published in the *Pennsylvania Bulletin*. Further, agencies proposing changes to the codified text do so in the *Pennsylvania Bulletin*.

Second, the *Pennsylvania Bulletin* also publishes: Governor's Executive Orders; State Contract Notices; Summaries of Enacted Statutes; Statewide and Local Court Rules; Attorney General Opinions; Motor Carrier Applications before the Public Utility Commission; Applications and Actions before the Department of Environmental Protection; Orders of the Independent Regulatory Review Commission; and other documents authorized by law.

The text of certain documents published in the *Pennsylvania Bulletin* is the only valid and enforceable text. Courts are required to take judicial notice of the *Pennsylvania Bulletin*.

## **Adoption, Amendment or Repeal of Regulations**

Generally an agency wishing to adopt, amend or repeal regulations must first publish in the *Pennsylvania Bulletin* a Notice of Proposed Rulemaking. There are limited instances where the agency may omit the proposal step; they still must publish the adopted version.

The Notice of Proposed Rulemaking contains the full text of the change, the agency contact person, a fiscal note required by law and background for the action.

The agency then allows sufficient time for public comment before taking final action. An adopted proposal must be published in the *Pennsylvania*

*Bulletin* before it can take effect. If the agency wishes to adopt changes to the Notice of Proposed Rulemaking to enlarge the scope, they must re-propose.

## **Citation to the *Pennsylvania Bulletin***

Cite material in the *Pennsylvania Bulletin* by volume number and page number. Example: Volume 1, *Pennsylvania Bulletin*, page 801 (short form: 1 Pa.B. 801).

## ***Pennsylvania Code***

The *Pennsylvania Code* is the official codification of rules and regulations issued by Commonwealth agencies and other statutorily authorized documents. The *Pennsylvania Bulletin* is the temporary supplement to the *Pennsylvania Code*, printing changes as soon as they occur. These changes are then permanently codified by the *Pennsylvania Code Reporter*, a monthly, loose-leaf supplement.

The *Pennsylvania Code* is cited by title number and section number. Example: Title 10 *Pennsylvania Code*, § 1.1 (short form: 10 Pa.Code § 1.1).

Under the *Pennsylvania Code* codification system, each regulation is assigned a unique number by title and section. Titles roughly parallel the organization of Commonwealth government. Title 1 *Pennsylvania Code* lists every agency and its corresponding *Code* title location.

## **How to Find Documents**

Search for your area of interest in the *Pennsylvania Code*.

The *Pennsylvania Code* contains, as Finding Aids, subject indexes for the complete *Code* and for each individual title, a list of Statutes Used As Authority for Adopting Rules and a list of annotated cases. Source Notes give you the history of the documents. To see if there have been recent changes, not yet codified, check the List of *Pennsylvania Code* Chapters Affected in the most recent issue of the *Pennsylvania Bulletin*.

The *Pennsylvania Bulletin* also publishes a quarterly List of Pennsylvania Code Sections Affected which lists the regulations in numerical order, followed by the citation to the *Pennsylvania Bulletin* in which the change occurred.

**SUBSCRIPTION INFORMATION: (717) 766-0211**  
**GENERAL INFORMATION AND FINDING AIDS: (717) 783-1530**

### Printing Format

Material proposed to be added to an existing rule or regulation is printed in **bold face** and material proposed to be deleted from such a rule or regulation is enclosed in brackets [ ] and printed in **bold face**. Asterisks indicate ellipsis of *Pennsylvania Code* text retained without change. Proposed new or additional regulations are printed in ordinary style face.

### Fiscal Notes

Section 612 of The Administrative Code of 1929 (71 P. S. § 232) requires that the Office of Budget prepare a fiscal note for regulatory actions and administrative procedures of the administrative departments, boards, commissions or authorities receiving money from the State Treasury stating whether the proposed action or procedure causes a loss of revenue or an increase in the cost of programs for the Commonwealth or its political subdivisions; that the fiscal note be published in the *Pennsylvania Bulletin* at the same time as the proposed change is advertised; and that the fiscal note shall provide the following information: (1) the designation of the fund out of which the appropriation providing for expenditures under the action or procedure shall be made; (2) the probable cost for the fiscal year the program is implemented; (3) projected cost estimate of the program for each of the five succeeding fiscal years; (4) fiscal history of the program for which expenditures are to be made; (5) probable loss of revenue for the fiscal year of its implementation; (6) projected loss of revenue from the program for each of the five succeeding fiscal years; (7) line item, if any, of the General Appropriation Act or other appropriation act out of which expenditures or losses of Commonwealth funds shall occur as a result of the action or procedures; (8) recommendation, if any, of the Secretary of the Budget and the reasons therefor.

The required information is published in the foregoing order immediately following the proposed change to which it relates; the omission of an item indicates that the agency text of the fiscal note states that there is no information available with respect thereto. In items (3) and (6) information is set forth for the first through fifth fiscal years; in that order, following the year the program is implemented, which is stated. In item (4) information is set forth for the current and two immediately preceding years, in that order. In item (8) the recommendation, if any, made by the Secretary of Budget is published with the fiscal note. See 4 Pa. Code § 7.231 *et seq.* Where “no fiscal impact” is published, the statement means no additional cost or revenue loss to the Commonwealth or its local political subdivision is intended.

### Reproduction, Dissemination or Publication of Information

Third parties may not take information from the *Pennsylvania Code* and *Pennsylvania Bulletin* and reproduce, disseminate or publish such information except as provided by 1 Pa. Code § 3.44. 1 Pa. Code § 3.44 reads as follows:

#### § 3.44. General permission to reproduce content of Code and Bulletin.

Information published under this part, which information includes, but is not limited to, cross references, tables of cases, notes of decisions, tables of contents, indexes, source notes, authority notes, numerical lists and codification guides, other than the actual text of rules or regulations may be reproduced only with the written consent of the Bureau. The information which appears on the same leaf with the text of a rule or regulation, however, may be incidentally reproduced in connection with the reproduction of the rule or regulation, if the reproduction is for the private use of a subscriber and not for resale. There are no other restrictions on the reproduction of information published under this part, and the Commonwealth hereby consents to a reproduction.

# List of Pa. Code Chapters Affected

The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 2007.

## 1 Pa. Code (General Provisions)

### Adopted Rules

301 .....	5886
303 .....	5886
305 .....	5886
307 .....	5886
309 .....	5886
311 .....	5886
311a .....	5886
313 .....	5886
315 .....	5886

### Proposed Rules

301 .....	1220
303 .....	1220
305 .....	1220
307 .....	1220
309 .....	1220
311 .....	1220
311a .....	1220
313 .....	1220
315 .....	1220

## 4 Pa. Code (Administration)

### Adopted Rules

7 .....	3362
311 .....	5376

### Proposed Rules

250 .....	4209
-----------	------

### Statements of Policy

9 .....	27, 953, 1870, 3438, 4876, 5382
---------	---------------------------------

## 7 Pa. Code (Agriculture)

### Adopted Rules

11 .....	4518
95 .....	4518
123 .....	4518
125 .....	4518
128a .....	4518
130e .....	194

### Proposed Rules

11 .....	951
21 .....	672
23 .....	672
25 .....	672
27 .....	672
95 .....	951
123 .....	951
125 .....	951
128a .....	951
130f .....	5793
139 .....	2823

## 10 Pa. Code (Banks and Banking)

### Proposed Rules

46 .....	3416
----------	------

## 12 Pa. Code (Commerce, Trade and Local Government)

### Adopted Rules

145 .....	1840
-----------	------

## Statements of Policy

73 .....	5601
123 .....	5266

## 22 Pa. Code (Education)

### Adopted Rules

49 .....	209, 5150
----------	-----------

### Proposed Rules

14 .....	2961
16 .....	4872
201 .....	3423
211 .....	3423
213 .....	3423
215 .....	3423

## 25 Pa. Code (Environmental Protection)

### Adopted Rules

93 .....	11
121 .....	2365
123 .....	883
126 .....	209
127 .....	2365
245 .....	5979
803 .....	774
804 .....	774
805 .....	774
806 .....	774
807 .....	774
808 .....	774
901 .....	4620

### Proposed Rules

83 .....	4780
93 .....	2190
109 .....	4762, 5158
121 .....	2063
127 .....	1317
129 .....	2063
130 .....	5117, 5379, 5799
145 .....	2063
209 .....	4754
209a .....	4754
260a .....	3249
261a .....	3249
262a .....	3249
263a .....	3249
264a .....	3249
265a .....	3249
266a .....	3249
266b .....	3249
267a .....	3249
269a .....	3249
270a .....	3249
806 .....	5531
808 .....	5531
901 .....	785, 3098, 4624, 5527
Unclassified .....	4871

### Statements of Policy

83 .....	2609
----------	------

**28 Pa. Code (Health and Safety)****Proposed Rules**

611 ..... 4198, 4431, 4525

**Statements of Policy**

931 ..... 953

**31 Pa. Code (Insurance)****Adopted Rules**

84a ..... 1125

**Proposed Rules**

133 ..... 1229

**34 Pa. Code (Labor and Industry)****Adopted Rules**

121 ..... 4181

123 ..... 2804

**Statements of Policy**

123 ..... 317

231 ..... 4880

**37 Pa. Code (Law)****Adopted Rules**

801 ..... 2511

802 ..... 2511

**Proposed Rules**

97 ..... 786

**Statements of Policy**

200 ..... 1651, 2517

411 ..... 1651

**40 Pa. Code (Liquor)****Adopted Rules**

5 ..... 16

11 ..... 16

13 ..... 16

17 ..... 16

**Proposed Rules**

1 ..... 3418

3 ..... 3418

5 ..... 3418

7 ..... 3418

11 ..... 3418

13 ..... 3418

17 ..... 3418

**49 Pa. Code (Professional and Vocational Standards)****Adopted Rules**

7 ..... 20

11 ..... 4055

13 ..... 2412

16 ..... 1644, 3230

18 ..... 1644, 3230

19 ..... 2606

25 ..... 3230

31 ..... 3240, 3365

35 ..... 2291

36 ..... 3367

42 ..... 4519

**Proposed Rules**

5 ..... 4627

7 ..... 4628

9 ..... 4625

13 ..... 1867, 1868, 4643, 5257

16 ..... 4647

21 ..... 1035, 1980, 4649

25 ..... 5598

27 ..... 1036, 4652, 5260

31 ..... 1038

35 ..... 1499

39 ..... 1494

43b (correction) ..... 2098

47 ..... 5264

**Statements of Policy**

27 ..... 5807

43b ..... 2608

**52 Pa. Code (Public Utilities)****Adopted Rules**

54 ..... 4996

57 ..... 4996

**Proposed Rules**

54 ..... 5895

64 ..... 1032

75 ..... 5597

Unclassified ..... 1126, 2098

**Statements of Policy**

69 (correction) ..... 29, 1335, 5019, 5166

**Proposed Statement of Policy**

69 ..... 6022

**55 Pa. Code (Public Welfare)****Adopted Rules**

140 ..... 2180

1163 ..... 4065

1249 ..... 2185

**Proposed Rules**

1150 ..... 1865

1243 ..... 1865

**Statements of Policy**

178 ..... 1043, 1046

259 ..... 4881

1101 ..... 1880

1249 ..... 2215

3270 ..... 5018

3280 ..... 5018

4300 ..... 2979

**58 Pa. Code (Recreation)****Adopted Rules**

61 ..... 4752

63 ..... 4621, 4869

65 ..... 4870

131 ..... 2947

135 ..... 1309

137 ..... 1310, 2948

139 ..... 2949

141 ..... 2955, 2956, 2957, 2958, 5255, 5377

147 ..... 1310, 1311, 1312, 2959, 5255

401 ..... 2808

401a ..... 2808

403 ..... 2808

403a ..... 2808

405 ..... 2808

405a ..... 2808

407 ..... 2808

407a ..... 2808

421 ..... 5752

421a ..... 5752

423 ..... 5752



423a	5752
425	5752
425a	5752
427	5752
427a	5752
431	5752
431a	5752
436	5752
436a	5752
438	5752
438a	5752
439	5752
439a	5752
440	5752
440a	5752
451	2686
451a	2686
461	3381
461a	3381, 4068
461b	3381
463	3381
463a	3382
465	4068
465a	4068
465b	4068
466	4068
466a	4068
466b	4068
467	4068
467a	4068
471	2686
471a	2686
481	2688
481a	2688
491	4520
491a	4520, 5774
492	4520
493	5774
493a	5774
494	5774
494a	5774
495	5774
495a	5774
497	5774
497a	5774
499	5774
499a	5774
501	5774
501a	5774
503	5774
503a	5774
511	5785
511a	5785
513	5785
513a	5785
Unclassified	2960

#### Proposed Rules

21	5379
51	4431
61	2692
63	2196, 2694
65	1218
69	1218
111	1220
131	1325
133	5164
135	315
137	1333
139	1327

141	1320, 1324, 2837, 2838
147	211, 1333, 2695
405a	5799
421a	2197, 5804
423a	2197, 5804
425a	2197
427a	2197
429a	2695
431a	2197
433a	2695
435a	2695
436a	2197
437a	2695
438a	2197
439a	2197
440a	2197
441a	2695
461a	5799
491a	23
493a	2298
494a	2298
495a	2298
497a	2298
499a	2298
501a	416
503a	416
511a	1490
513a	1490

#### Statements of Policy

436a	2099
436b	2099
503b	5385

#### Temporary Rules

401	21, 1841, 1968
405	1313, 1968
421	1970
423	1968, 1970
425	21
427	1970
429	1862
431	1970
433	1841, 2292
435	1841
437	1841
440	2292
441	1841, 2296
443	1841
461	1968, 2292
465	1978, 2292
511	1314

#### 61 Pa. Code (Revenue)

##### Adopted Rules

951	4195
1001	3410

##### Proposed Rules

1001	1028
------	------

##### Statements of Policy

60	1048
----	------

#### 67 Pa. Code (Transportation)

##### Adopted Rules

71	4621
75	1487
173	3242
457	1650

**201 Pa. Code (Judicial Administration)****Adopted Rules**

5 .....	2491
19 .....	929

**204 Pa. Code (Judicial System General Provisions)****Adopted Rules**

29 .....	5593
71 .....	311, 3212
81 .....	3212
83 .....	1959, 3218
211 .....	5594

**Proposed Rules**

81 .....	394
83 .....	394, 520, 2602

**207 Pa. Code (Judicial Conduct)****Adopted Rules**

1 .....	752
3 .....	752
117 .....	1025, 1839

**210 Pa. Code (Appellate Procedure)****Adopted Rules**

1 .....	521
3 .....	521
9 .....	521, 2492
13 .....	3222
15 .....	2492
19 .....	2405, 2408
21 .....	2409, 3222
67 .....	5374

**225 Pa. Code (Rules of Evidence)****Adopted Rules**

ART. I .....	2492
ART. VI .....	5247

**Proposed Rules**

ART. IV .....	3223
VIII .....	669

**231 Pa. Code (Rules of Civil Procedure)****Adopted Rules**

200 .....	312, 3095, 4515
400 .....	1480
1000 .....	1411, 1480, 3225
1700 .....	1480
1900 .....	929
1910 .....	522, 2800, 5976
1915 .....	2602, 5974
1920 .....	1959, 5976
2200 .....	1480
3000 .....	939, 1411
4000 .....	2178, 5374
Part II .....	1759, 2575

**Proposed Rules**

200 .....	1640, 2930
1000 .....	5248
1300 .....	1641
1311 .....	5250
1910 .....	1120, 2493, 5251
1915 .....	2493
1920 .....	2493
3000 .....	1641
4000 .....	7, 5252

**234 Pa. Code (Rules of Criminal Procedure)****Adopted Rules**

4 .....	523, 752
5 .....	2496
7 .....	523
8 .....	1960
10 .....	312

**Proposed Rules**

1 .....	2409, 4170
2 .....	1302
3 .....	4170
5 .....	1025, 1303, 2409, 4178
6 .....	4170

**237 Pa. Code (Juvenile Rules)****Adopted Rules**

1 .....	1123, 1483, 4866
2 .....	1483
3 .....	1123, 4866
5 .....	2506, 4866
6 .....	1123
8 .....	1123, 1483
11 .....	1123

**Proposed Rules**

1 .....	527, 1306
3 .....	527
5 .....	527
6 .....	3096
11 .....	943
12 .....	943
13 .....	943, 5976
14 .....	943
15 .....	943
16 .....	943
17 .....	943
18 .....	943

**246 Pa. Code (Minor Court Civil Rules)****Adopted Rules**

100 .....	2092
-----------	------

**249 Pa. Code (Philadelphia Rules)**

Unclassified .....	2932
--------------------	------

**252 Pa. Code (Allegheny Rules)**

Unclassified .....	2411, 2933
--------------------	------------

**255 Pa. Code (Local Court Rules)**

Unclassified .....	255, 400, 401, 404, 530, 670, 671, 761, 768, 770, 772, 773, 949, 950, 1026, 1124, 1215, 1216, 1414, 1642, 1962, 2094, 2095, 2096, 2289, 2509, 2510, 2681, 2684, 2800, 2802, 2803, 2939, 2940, 3227, 3228, 3229, 4430, 4517, 4617, 4618, 4750, 4975, 4985, 4986, 4988, 4995, 5253, 5524, 5594, 5596, 5737, 5743
--------------------	--

# THE COURTS

## Title 231—RULES OF CIVIL PROCEDURE

### PART I. GENERAL

[ 231 PA. CODE CH. 1915 ]

Order Amending Rules 1915.4-1 and 1915.4-2 and Promulgating New Rule of Civil Procedure 1915.4-3; No. 484 Civil Procedural Rules; Doc. No. 5

#### Order

*Per Curiam:*

And Now, this 30th day of October, 2007, Rules 1915.4-1 and 1915.4-2 of the Pennsylvania Rules of Civil Procedure are amended and new Pennsylvania Rule of Civil Procedure 1915.4-3 is promulgated as follows.

This order shall be processed in accordance with Pa. R.J.A. 103(b) and shall be effective immediately.

#### Annex A

### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 1915. ACTIONS FOR CUSTODY, PARTIAL CUSTODY AND VISITATION OF MINOR CHILDREN

**Rule 1915.4-1. Alternative Hearing Procedures for Partial Custody or Visitation Actions.**

(a) [ Except as provided in subdivision (b), ] A custody action shall proceed as prescribed by Rule 1915.4-3 unless the court, by local rule, adopts the alternative hearing procedure authorized by Rule 1915.4-2 pursuant to which an action for partial custody or visitation may be heard by a hearing officer [ as prescribed by Rule 1915.4-2 ] , except as provided in subdivision (b) below.

(b) Promptly after the parties' initial contact with the court as set forth in Rule 1915.4(a) [ above ], a party may move the court for a hearing before a judge, rather than a hearing officer, in an action for partial custody or visitation where:

- (1) there are complex questions of law, fact or both, or
- (2) the parties certify to the court that there are serious allegations affecting the child's welfare.

(c) The president judge or the administrative judge of the family division of each county shall certify that custody proceedings generally are conducted in accordance with either Rule 1915.4-2 or Rule 1915.4-3. The certification shall be filed with the Domestic Relations Procedural Rules Committee of the Supreme Court of Pennsylvania and shall be substantially in the following form:

I hereby certify that \_\_\_\_\_ County conducts its custody proceedings in accordance with Rule \_\_\_\_\_.

\_\_\_\_\_  
(President Judge)                      (Administrative Judge)

*Note:* Pursuant to Rule 1915.4-1, the following counties have certified to the Domestic Relations

Procedural Rules Committee that their custody proceedings generally are conducted in accordance with the rule specified below:

#### COUNTY                      RULE

Adams  
Allegheny  
Armstrong  
Beaver  
Bedford  
Berks  
Blair  
Bradford  
Bucks  
Butler  
Cambria  
Cameron  
Carbon  
Centre  
Chester  
Clarion  
Clearfield  
Clinton  
Columbia  
Crawford  
Cumberland  
Dauphin  
Delaware  
Elk  
Erie  
Fayette  
Forest  
Franklin  
Fulton  
Greene  
Huntingdon  
Indiana  
Jefferson  
Juniata  
Lackawanna  
Lancaster  
Lawrence  
Lebanon  
Lehigh  
Luzerne  
Lycoming  
McKean  
Mercer  
Mifflin  
Monroe  
Montgomery  
Montour  
Northampton  
Northumberland  
Perry  
Philadelphia  
Pike  
Potter  
Schuylkill  
Snyder  
Somerset  
Sullivan  
Susquehanna  
Tioga  
Union  
Venango  
Warren

COUNTY                      RULE  
 Washington  
 Wayne  
 Westmoreland  
 Wyoming  
 York

**Explanatory Comment—2007**

**The intent of the amendments to Rules 1915.4-1 and 1915.4-2, and new Rule 1915.4.3, is to clarify the procedures in record and non-record custody proceedings. When the first proceeding is non-record, no exceptions are required and a request for a de novo hearing may be made.**

\* \* \* \* \*

Rule 1915.4-2. **Partial Custody. Visitation.** Office Conference. Hearing. Record. Exceptions. Order.

**(a) Office Conference.**

(1) The office conference shall be conducted by a conference officer.

**[ (2) The hearing shall be conducted by a hearing officer. A hearing officer who is a lawyer employed by a judicial district shall not practice family law before a conference officer, hearing officer or permanent or standing master employed by the same judicial district. ]**

**[ (b) ] (2)** If the respondent fails to appear at the conference before the conference officer as directed by the court, the conference may proceed without the respondent.

**[ (c) ] (3)** The conference officer may make a recommendation to the parties relating to partial custody or visitation of the child or children. If an agreement for partial custody or visitation is reached at the conference, the conference officer shall prepare a written order in conformity with the agreement for signature by the parties and submission to the court together with the officer's recommendation for approval or disapproval. The court may enter an order in accordance with the agreement without hearing the parties.

**[ (d) ] (4)** At the conclusion of the conference, if an agreement relating to partial custody or visitation has not been reached, the parties shall be given notice of the date, time and place of a hearing **before a hearing officer**, which may be the same day, but in no event shall be more than forty-five days from the date of the conference.

**(b) Hearing.**

(1) The hearing shall be conducted by a hearing officer who must be a lawyer, and a record shall be made of the testimony. **A hearing officer who is a lawyer employed by a judicial district shall not practice family law before a conference officer, hearing officer or permanent or standing master employed by the same judicial district.**

**[ (e) ] (2)** The hearing officer shall receive evidence and hear argument. The hearing officer may recommend to the court that the parties and/or the subject child or children submit to examination and evaluation by experts pursuant to Rule 1915.8.

**[ (f) ] (3)** Within ten days of the conclusion of the hearing, the hearing officer shall file with the court and serve upon all parties a report containing a recommendation with respect to the entry of an order of partial custody or visitation. The report may be in narrative form stating the reasons for the recommendation and shall include a proposed order, including a specific schedule for partial custody or visitation.

**[ (g) ] (4)** Within twenty days after the date the hearing officer's report is mailed or received by the parties, whichever occurs first, any party may file exceptions to the report or any part thereof, to rulings on objections to evidence, to statements or findings of fact, to conclusions of law, or to any other matters occurring during the hearing. Each exception shall set forth a separate objection precisely and without discussion. Matters not covered by exceptions are deemed waived unless, prior to entry of the final order, leave is granted to file exceptions raising those matters. If exceptions are filed, any other party may file exceptions within twenty days of the date of service of the original exceptions.

**[ (h) ] (5)** If no exceptions are filed within the twenty-day period, the court shall review the report and, if approved, enter a final order.

**[ (i) ] (6)** If exceptions are filed, the court shall hear argument on the exceptions within forty-five days of the date the last party files exceptions, and enter an appropriate final order within fifteen days of argument. No motion for Post-Trial Relief may be filed to the final order.

**[ Explanatory Comment—1994**

**These new rules provide an optional procedure for using hearing officers in partial custody and visitation cases. The procedure is similar to the one provided for support cases in Rule 1910.12: a conference, record hearing before a hearing officer and argument on exceptions before a judge. The terms "conference officer" and "hearing officer" have the same meaning here as in the support rules.**

**It is important to note that use of the procedure prescribed in Rules 1915.4-1 and 1915.4-2 is optional rather than mandatory. Counties which prefer to have all partial custody and visitation cases heard by a judge may continue to do so.**

**These procedures are not intended to replace or prohibit the use of any form of mediation or conciliation. On the contrary, they are intended to be used in cases which are not resolved through the use of less adversarial means. ]**

**Explanatory Comment—2006**

The time for filing exceptions has been expanded from ten to twenty days. The purpose of this amendment is to provide ample opportunity for litigants and counsel to receive notice of the entry of the order, to assure commonwealth-wide consistency in calculation of time for filing and to conform to applicable general civil procedural rules.

**Rule 1915.4-3. Non-Record Proceedings. Trial.**

**(a) Non-Record Proceedings.** In those jurisdictions which utilize an initial non-record proceeding such as a conciliation conference or office conference, if no agreement is reached at the conclusion of the proceeding, the conference officer or conciliator shall promptly notify the court that the matter should be listed for trial.

(b) *Trial.* The trial before the court shall be de novo. The court shall hear the case and render a decision within the time periods set forth in Rule 1915.4.

[Pa.B. Doc. No. 07-2056. Filed for public inspection November 9, 2007, 9:00 a.m.]

## PART I. GENERAL

### [ 231 PA. CODE CHS. 1910 AND 1920 ]

Order Amending Rules 1910.11 and 1920.31; No. 485 Civil Procedural Rules; Doc. No. 5

#### Order

*Per Curiam:*

And Now, this 30th day of October, 2007, Rules 1910.11 and 1920.31 of the Pennsylvania Rules of Civil Procedure are amended as follows.

This order shall be processed in accordance with Pa. R.J.A. 103(b) and shall be effective immediately.

#### Annex A

### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 1910. ACTIONS FOR SUPPORT

**Rule 1910.11. Office Conference. Subsequent Proceedings. Order.**

\* \* \* \* \*

(c) At the conference, the parties shall furnish to the officer true copies of their most recent federal income tax returns, their pay stubs for the preceding six months, verification of child care expenses and proof of medical coverage which they may have or have available to them. In addition, they shall provide copies of their Income and Expense Statements in the forms required by Rule 1910.27(c), completed as set forth below.

(1) For cases which can be determined according to the guideline formula, the Income Statement must be completed and the Expense Statement at Rule 1910.27(c)(2)(A) should be completed if a party is claiming unusual needs and unusual fixed expenses **that may warrant a deviation from the guideline amount of support pursuant to Rule 1910.16-5 or seeks apportionment of expenses pursuant to Rule 1910.16-6. In a support case that can be decided according to the guidelines, even if the support claim is raised in a divorce complaint, no expense form is needed unless a party claims unusual needs or unusual fixed expenses or seeks apportionment of expenses pursuant to Rule 1910.16-6. However, in the divorce action, the Expense Statement at Rule 1910.27(c)(2)(B) may be required.**

\* \* \* \* \*

#### CHAPTER 1920. ACTIONS OF DIVORCE OR FOR ANNULMENT OF MARRIAGE

**Rule 1920.31. Joinder of Related Claims. Child and Spousal Support. Alimony. Alimony Pendente Lite. Counsel Fees. Expenses.**

(a)(1) Within thirty days after the service of the pleading or petition containing a claim for [ **child or spousal support,** ] alimony[ , **alimony pendente lite** ] or counsel fees, costs and expenses, each party shall file a true copy of the most recent federal income tax return, pay stubs for the preceding six months, a completed Income Statement in the form required at Rule 1910.27(c)(1) and a completed Expense Statement in the form required by Rule 1910.27(c)(2)(B). **If a claim for child support, spousal support or alimony pendente lite is raised in a divorce complaint, no expense form is needed in a support action that can be decided pursuant to the support guidelines unless a party claims unusual needs or unusual fixed expenses or seeks deviation pursuant to Rule 1910.16-5 or apportionment of expenses pursuant to Rule 1910.16-6.**

\* \* \* \* \*

[Pa.B. Doc. No. 07-2057. Filed for public inspection November 9, 2007, 9:00 a.m.]

## Title 237—JUVENILE RULES

### PART I. RULES

#### [ 237 PA. CODE CH. 13 ]

**Proposed Amendments to Rules 1320, 1324 and 1330**

The Juvenile Court Procedural Rules Committee is planning to recommend to the Supreme Court of Pennsylvania that the modification of Rules 1320 and 1330 and the new Rule 1324 be adopted and prescribed. The proposed modified Rule 1320 sets forth that any person may present an application for a private petition. The new proposed Rule 1324 allows juvenile probation officers to file a petition in certain cases. The proposed modified Rule 1330 adds that juvenile probation officers may file dependency petitions. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the intent of the rules. Please note that the Committee's Reports should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the explanatory Reports.

We request that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel,

A. Christine Riscili, Esq.  
Staff Counsel  
Supreme Court of Pennsylvania  
Juvenile Court Procedural Rules Committee  
5035 Ritter Road, Suite 700  
Mechanicsburg, PA 17055

no later than Friday, December 21, 2007.

*By the Juvenile Court  
Procedural Rules Committee*

FRANCIS BARRY MCCARTHY,  
*Chair*

## Annex A

## TITLE 237. JUVENILE RULES

## PART I. RULES

## Subpart B. DEPENDENCY MATTERS

## CHAPTER 13

## PART C. PETITION

**Rule 1320. Application to File a Private Petition.**

A. *Application contents.* Any person[, other than the county agency,] may present an application to file a private petition with the court. The application shall include the following information:

- 1) the name of the person applying for a petition;
- 2) the name of the alleged dependent child;
- 3) the relationship of the person presenting this application to the child and to any other parties;
- 4) if known, the following:
  - a) the date of birth and address of the child;
  - b) the name and address of the child's guardian, or the name and address of the nearest adult relative;
  - c) if a child is Native American, the child's Native American history or affiliation with a tribe;
  - d) a statement, including court file numbers where possible, of pending juvenile or family court proceedings and prior or present juvenile or family court orders relating to the child;
- 5) a concise statement of facts in support of the allegations for which the application for a petition has been filed;
- 6) a statement that the applying person has reported the circumstances underlying this application to the county agency or a reason for not having reported the circumstances underlying the application;
- 7) a verification by the person making the application that the facts set forth in the application are true and correct to the person's personal knowledge, information, or belief, and that any false statements are subject to the penalties of the Crimes Code, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities; and
- 8) the signature of the person and the date of the execution of the application for a petition.

B. *Service.* If a person presents an application for a petition under this rule, the person shall serve the application on the court and all parties to the proceeding.

**Comment**

Rule 1330 requires that the county agency file a petition. Any person, other than the county agency or the juvenile probation officer, is to file an application to file a petition under this Rule. Rule 1800 suspends 42 Pa.C.S. § 6334, which provides any person may file a petition.

See Rule 1321 for hearing on application and finding that a petition is to be filed by the county agency.

**See Rule 1324 for the ability of juvenile probation officers to file dependency petitions. An application for a private petition under this rule is not necessary in those cases.**

**Official Note:** Rule 1320 adopted August, 21, 2006, effective February 1, 2007. **Amended** , **effective**

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1320 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006). **Final Report explaining the modifications of Rule 1320 published with the Court's Order at 37 Pa.B. 5978 (November 10, 2007).**

**Rule 1324. Petitions by Juvenile Probation Officers.**

A juvenile probation officer may file a dependency petition:

- 1) pursuant to 42 Pa.C.S. § 6302, dependent child paragraphs (5) through (9); or
- 2) in conjunction with a delinquency proceeding.

**Comment**

A juvenile probation officer may seek to invoke the court's jurisdiction under the "status offense" definition of a dependent child under the Juvenile Act, 42 Pa.C.S. § 6302, dependent child paragraphs 5 through 9, or at any time during the course of a delinquency proceeding.

**Official Note:** Rule 1324 adopted , effective

*Committee Explanatory Reports:*

**Final Report explaining the provisions of Rule 1324 published with the Court's Order at 37 Pa.B. 5978 (November 10, 2007).**

**Rule 1330. Petition: Filing, Contents, Function, Aggravated Circumstances.**A. *Filings.*

1) A dependency petition may be filed at any time; however, if a child is taken into custody, the requirements of paragraph (A)(2) shall be met.

2) Within twenty-four hours of the shelter care hearing, the county agency or the juvenile probation officer shall file a dependency petition with the clerk of courts when:

- a) the child remains in protective custody pursuant to Rule 1201, 1202 or 1210; or
- b) the child is not in protective custody but it is determined at a shelter care hearing pursuant to Rule 1242 that the filing of a dependency petition is appropriate.

B. *Petition contents.* Every petition shall set forth plainly:

- 1) the name of the petitioner;
- 2) the name, date of birth, and address of the child, if known;
- 3) the name and address of the child's guardian, or if unknown, the name and address of the nearest adult relative;
- 4) if a child is Native American, the child's Native American history or affiliation with a tribe;
- 5) a statement that:
  - a) it is in the best interest of the child and the public that the proceedings be brought;
  - b) the child is or is not currently under the supervision of the county agency;
- 6) a concise statement of facts in support of the allegations for which the petition has been filed;
  - a) facts for each allegation shall be set forth separately;

b) the relevant statute or code section shall be set forth specifically for each allegation;

7) a verification by the petitioner that the facts set forth in the petition are true and correct to the petitioner's personal knowledge, information, or belief, and that any false statements are subject to the penalties of the Crimes Code, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities;

8) the signature of the petitioner and the date of the execution of the petition; and

9) the whereabouts of the child unless disclosure is prohibited by court order and if taken into custody, the date and time thereof.

C. *Aggravated circumstances.* A motion for finding of aggravated circumstances may be brought in the petition pursuant to Rule 1701(A).

#### Comment

Petitions should be filed without unreasonable delay.

Under paragraph (A)(2), a petition is to be filed twenty-four hours after the shelter care hearing if the requirements of (A)(2)(a) and (b) are met. Rule 1800 suspends 42 Pa.C.S. § 6331 only as to the time requirement of when a petition is to be filed.

Additionally, paragraph (A)(2) requires that the county agency file a petition. Any other person, other than the county agency, is to file an application to file a petition under Rule 1320 **unless the exception under Rule 1324 applies.** Rule 1800 suspends 42 Pa.C.S. § 6334, which provides any person may file a petition.

For the safety or welfare of a child or a guardian, the court may order that the addresses of the child or a guardian not be disclosed to specified individuals.

A motion for finding of aggravated circumstances may be brought in a dependency petition. See Rule 1701(A). If aggravated circumstances are determined to exist after the filing of a petition, a written motion is to be filed pursuant to Rules 1701 and 1344.

The aggravated circumstances, as defined by 42 Pa.C.S. § 6302, are to be specifically identified in the motion for finding of aggravated circumstances.

**Official Note:** Rule 1330 adopted August, 21, 2006, effective February 1, 2007. **Amended** , **effective** .

#### *Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 1330 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006). **Final Report explaining the modifications of Rule 1330 published with the Court's Order at 37 Pa.B. 5978 (November 10, 2007).**

#### Explanatory Report

##### *Rule 1320—Application to File a Private Petition*

The Committee is proposing that the Comment to this Rule include a cite to the New Rule 1324 which provides for the filing of petitions by the juvenile probation officer.

##### *Rule 1324—Petitions by Juvenile Probation Officers*

This new proposed rule allows the juvenile probation officer to file a dependency petition in certain classes of cases. The juvenile probation officer may file a petition in the status offense cases pursuant to 42 Pa.C.S. § 6302 paragraphs (5) through (9) or in any class of dependency case if it is in conjunction with a delinquency proceeding.

##### *Rule 1330—Petition: Filing, Contents, Function, Aggravated Circumstances*

The Committee is proposing that the Comment to this Rule include the ability of the juvenile probation officer to file dependency petitions in certain classes of cases.

[Pa.B. Doc. No. 07-2058. Filed for public inspection November 9, 2007, 9:00 a.m.]

## DISCIPLINARY BOARD OF THE SUPREME COURT

### Notice of Reinstatement

Notice is hereby given that by Order of the Supreme Court of Pennsylvania issued October 11, 2007, M. Abraham Ahmad was reinstated to the practice of law in this Commonwealth. In accordance with Rule 218(h), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,

*Secretary*

*The Disciplinary Board of the  
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 07-2059. Filed for public inspection November 9, 2007, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 25—ENVIRONMENTAL PROTECTION

### ENVIRONMENTAL QUALITY BOARD

[ 25 PA. CODE CH. 245 ]

#### Administration of the Storage Tank and Spill Prevention Program

The Environmental Quality Board (Board) by this order amends 25 Pa. Code Chapter 245 (relating to administration of the Storage Tank and Spill Prevention Program).

This order was adopted by the Board at its meeting of June 19, 2007.

##### A. *Effective Date*

These amendments will go into effect upon publication in the *Pennsylvania Bulletin* as final-form rulemaking.

##### B. *Contact Persons*

For further information, contact Charles M. Swokel, Chief, Division of Storage Tanks, P. O. Box 8763, Rachel Carson State Office Building, Harrisburg, PA 17105-8763, (717) 772-5806; or Kurt Klapkowski, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This final-form rulemaking is available electronically through the Department's website ([www.dep.state.pa.us](http://www.dep.state.pa.us)).

##### C. *Statutory Authority*

This rulemaking is being made under the authority of section 106 of the Storage Tank and Spill Prevention Act (act) (35 P. S. § 6021.106), which authorizes the Board to adopt rules and regulations governing aboveground and underground storage tanks (USTs) to accomplish the purposes and carry out the provisions of the act; sections 107(d) and 108 of the act (35 P. S. §§ 6021.107(d) and 6021.108), which authorize the Department of Environmental Protection (Department) to establish a certification program by regulation for installers and inspectors of storage tanks; section 301(a) and (d) of the act (35 P. S. § 6021.301(a) and (d)), which requires the Department to establish a regulatory program for aboveground storage tanks (ASTs) and a simplified program for small ASTs; sections 301(b) and 501(b) of the act (35 P. S. §§ 6021.301(b) and 6021.501(b)), which authorize the Department to establish classes and categories of tanks by regulation; sections 302(a) and 303(a) of the act (35 P. S. §§ 6021.302(a) and 6021.303(a)), which authorize the Department to establish registration and fee requirements for ASTs; section 501(a) of the act (35 P. S. § 6021.501(a)), which requires the Department to establish a regulatory program for USTs; sections 502(a) and 503(a) of the act (35 P. S. §§ 6021.502(a) and 6021.503(a)), which authorize the Department to establish registration and fee requirements for USTs; section 701(a) and (b) of the act (35 P. S. § 6021.701(a) and (b)), which authorizes the Board to establish regulations necessary for maintaining financial responsibility and methods of coverage; and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20), which authorizes the

Board to formulate, adopt and promulgate rules and regulations that are necessary for the proper work of the Department.

##### D. *Background of the Amendments*

The Board established the initial rulemaking governing administration of the storage tank and spill prevention program with its final-form publication of Chapter 245, Subchapters A and B (relating to general provisions; and certification program for installers and inspections of storage tanks and storage tank facilities), which was published at 21 Pa.B. 4345 (September 21, 1991). In that initial rulemaking, Federal requirements in 40 CFR Part 280 (relating to technical standards and corrective action requirements for owners and operators of underground storage tanks (UST)) were adopted by reference in Subchapter A. Later, in August 1993, the Board established comprehensive corrective action process regulations when it adopted Subchapter D, which the Board last amended at 31 Pa.B. 6615 (December 1, 2001). With the exception of Subchapter D, these regulations have been in use without any significant changes since amendments to Subchapters A, C and E—G became final in 1997 (27 Pa.B. 5341 (October 11, 1997)) and since the last substantial amendments of Subchapter B were published at 26 Pa.B. 4735 (September 28, 1996). Through the operation of these regulations over the past several years, the Department has identified many changes that are necessary to provide clarity, improvements in storage tank operations and administrative processes and to protect public health, safety and the environment.

The amendments to Subchapter A add three new definitional terms, change several existing terms and delete one term that is no longer needed. The amendments provide needed clarifications on regulated tank systems and regulated substances. This includes the reregulation of previously regulated and subsequently exempted large ASTs storing heating oil that is consumed on the premises. These tanks pose the same risk as other large ASTs and were unintentionally exempted when definitional terms from the UST requirements in 40 CFR Part 280 were previously codified in the Commonwealth's current regulations. The Department wants to correct this and reregulate these large aboveground heating oil tanks. The regulated substance changes include the addition of several nonpetroleum oils, biodiesel, synthetic fluids, and ethanol in its pure form, all substances that should be properly managed in regulated storage tank systems. The final-form rulemaking adds clarity to existing tank handling and tightness testing provisions in Subchapter A, as well as recordkeeping, reporting requirements and appropriate release detection references. The final-form rulemaking also adds comprehensive storage tank registration provisions and references the statutory registration fees in Subchapter A. The registration procedures are representative of longstanding Department policy on storage tank registration.

The amendments to Subchapter B include changes to tank installer, inspector and company certification provisions. These amendments pertain to qualifications, training, testing, education and renewal of certification. They place increased emphasis on training and standards of performance and reduce the number of qualifying activities required to obtain certification. Certified entities have expressed significant interest in moving from current qualifications that are based more on activities to more training qualifications, as activities in the field have



declined over the years. The amendments are needed to help ensure that adequate numbers of qualified installers and inspectors are certified and available to perform tank handling and inspection activities in this Commonwealth. Certified companies already incur technical and safety training costs for their certified employees and should be able to use that training to meet most of the amended certification requirements. Also, the Department provides administrative training and seminars at minimal or no cost.

This final-form rulemaking changes permitting provisions in Subchapter C (relating to permitting of underground and aboveground storage tank systems and facilities), by adding clarity, simplifying certain site-specific installation permit (SSIP) requirements and addressing when construction design criteria or engineering specifications may be required with permit applications. The amendments should reduce paperwork and administrative processes for many SSIP applicants and combines the operating permit application and tank registration application process. Construction design criteria and engineering specifications are a necessary part of tank construction. The Department currently reviews this information for permits that require specific plans to mitigate certain conditions at the site. The amendments are needed to further clarify this requirement and do not place a new burden or cost on the tank owner or SSIP applicant.

The final-form rulemaking also amends technical standards for UST systems in Subchapter E (relating to technical standards for underground storage tanks). The most significant changes in Subchapter E involve requirements for totally contained double-wall UST systems when new or replacement UST systems are installed, changes in monitoring for releases, the need for line leak detectors that automatically shut down the system when triggered and increases in UST inspection frequencies. These final-form amendments are more restrictive than Federal requirements in 40 CFR Part 280 that allow single-wall UST systems and additional or alternative monitoring methods for leak detection. Secondly contained UST systems and increased UST inspection frequencies are however, addressed in the UST compliance provisions of the Federal Energy Policy Act of 2005, August 8, 2005, Pub. L. No. 109-58, 119 Stat. 594 (Energy Policy Act) Energy Policy Act. The final-form rulemaking also clarifies recordkeeping requirements and addresses additional recordkeeping requirements that are necessary to support operational compliance with both the Commonwealth's regulations and Federal requirements in 40 CFR Part 280, but which are not clearly stated in the current regulations. The final-form rulemaking also contains provisions that preclude future UST internal lining, and requires removal of UST systems with failed linings. These amendments are necessary due to continuing problems with releases of regulated substances to the environment, particularly from single-wall USTs, from failed lined USTs and piping systems, and due to failure of many owners or operators to properly perform leak detection or to maintain operational records. The Department is concerned about the continuing releases and the inadequacy of storage tank leak detection and current operations. The final-form rulemaking also provides a phase-in period of temporary exclusions from certain technical requirements or equipment upgrades needed for existing tanks that become regulated due to the addition of new regulated substances in § 245.1 (relating to definitions). Amendments to UST variance provisions will allow for additional variances and promote the development and implementation of new technologies.

The final-form rulemaking amends technical standards for AST systems and facilities in Subchapter F (relating to technical standards for aboveground storage tanks and facilities) and requirements for small AST systems in Subchapter G (relating to simplified program for small aboveground storage tanks). The final-form rulemaking provides a phase-in period of temporary exclusions from certain technical requirements and inspection schedules needed for existing tanks that become regulated due to the definitional changes and addition of new regulated substances in § 245.1. The final-form rulemaking also contains additional information on AST system design requirements, engineering specifications and inspection or testing criteria. This should be helpful in determining when tanks are properly constructed, modified and maintained, and how best to determine suitability for service or to resolve tank system deficiencies noted during construction or inspection. Amendments to AST variance provisions will allow for additional variances and encourage the development and implementation of new technologies.

Lastly, the final-form amendments to Subchapter H (relating to financial responsibility requirements for owners and operators of underground storage tanks and storage tank facilities) clarify the financial responsibility requirements established in the act for appropriate methods of meeting the UST indemnification fund deductible coverage and would correct other minor errors in Subchapter H.

The Department worked closely with informal technical workgroups and advisory subcommittees, as well as the Storage Tank Advisory Committee (STAC), during development of this final-form rulemaking. The Department also met with several organizations, associations and groups, such as the Electric Power Generator Association, the National Association of State Aboveground Storage Tank Programs and the Tank Installers of Pennsylvania, a State association. The STAC, which was established by section 105 of the act (35 P.S. § 6021.105), consists of persons representing a cross-section of organizations having a direct interest in the regulation of storage tanks in this Commonwealth. As required by section 105 of the act, the STAC has been given the opportunity to review and comment on this final-form rulemaking. At meetings on February 5, 2002, June 4, 2002, June 3, 2003, December 9, 2003, and December 7, 2004, the STAC reviewed and discussed the proposed rulemaking. At its September 19, 2006 meeting, the Department presented the STAC with a draft Comment Document and discussed final-form rulemaking concepts. The STAC reviewed and discussed the final-form rulemaking at its meetings on December 12, 2006 and February 20, 2007. A Financial Responsibility and Certification Subcommittee meeting was held on February 9, 2007.

At the February 20, 2007, meeting, the STAC voted unanimously to approve Chapter 245 as written. However, some members of the STAC believe that the United States Environmental Protection Agency (EPA) may provide additional flexibility to the states to carry out the provisions of the Energy Policy Act, given the fact that Congress has provided no additional funding to the states to carry out the mandates. The concern is the impact that this flexibility will have on this rulemaking. The chairperson subsequently prepared a written report on the final-form rulemaking for presentation to the Board. A listing of STAC members and minutes of STAC meetings are available on the PA Power Port at [www.state.pa.us](http://www.state.pa.us) (PA Keyword: DEP Storage Tanks) and may also be obtained

from Charles M. Swokel, whose contact information appears in Section B of this preamble.

*E. Summary of Changes to and Comments and Responses on the Proposed Rulemaking*

During a 60-day public comment period, the Board received comments from 21 commentators, including the Independent Regulatory Review Commission (IRRC). Based on the comments received, several changes have been made to the text of the proposed regulatory amendment described previously.

*General*

A major development in the regulation of USTs in the United States was the passage of the Federal Underground Storage Tank Compliance Act as part of the Energy Policy Act (42 U.S.C.A. §§ 6991—6991m) in August 2005. This legislation represented the first major amendments to the Federal UST program since its initial adoption in 1984. Several commentators recommended that the Department and the Board delay this rulemaking until the EPA issues all prescribed and final guidelines to implement the UST compliance provisions of the Energy Policy Act. The Board shares the commentators' concerns that the UST program in this Commonwealth be no less stringent than the Federal requirements.

The Board does not agree, however, with delaying this rulemaking until EPA issues final guidelines under the Energy Policy Act. First, the process that led to this final-form rulemaking began in 2002, based on the Department's experience in administering the act, as well as the United States General Accounting Office's 2001 report reviewing the National UST program. The Board believes it is in Pennsylvania's best interest to have an UST program that addresses the specific issues facing this Commonwealth, while meeting the letter and spirit of the act. Second, the Energy Policy Act is fairly clear on its face, and the Board feels that the final-form rulemaking addresses almost every issue raised in that legislation. It is the Board's belief that the EPA will have no problem approving the Commonwealth's UST program as meeting the requirements of 40 CFR Part 281 (relating to approval of state underground storage tank programs) after the rulemaking is in effect, even in light of the Federal statutory changes. Third, the Energy Policy Act only addresses USTs, and so does not affect significant areas addressed in the rulemaking—ASTs, certification, permitting and registration, to name several. Fourth, some Energy Policy Act grant guidelines were not required to be in place as final until August 2007. This is not simply a "short-term delay," and allowing Pennsylvania's rulemaking process to be held hostage to the EPA's schedules does not seem appropriate. Finally, it might make some sense to wait if the EPA was actually proposing to amend the UST regulations at 40 CFR Parts 280 and 281, but instead the EPA is only issuing "grant guidelines." These are only policy documents, and only impact Federal funding of the state UST programs, rather than binding the regulated community. This means that the EPA should have flexibility and discretion to approve continued and expanded funding for this Commonwealth, even when the exact program requirements are not identical (compare, for example 40 CFR 280.50 (relating to reporting of suspected releases) with 25 Pa. Code §§ 245.304 and 245.305 (relating to investigation of suspected releases; and reporting releases)).

One commentator suggested that the final-form rulemaking should contain a 6 month "phase-in period" from the time the regulations are adopted to the time when they are effective to allow time for affected parties to set up policies and procedures to comply with the new regulations. The Board does not agree that a "regulation-wide" phase-in period should be provided. When phase-in periods are appropriate, they are narrowly focused and included as a part of the rulemaking in the specific area where they are needed (see, such as, §§ 245.403(c) and 245.505 (relating to applicability)). Also, the Board believes that the long development period noted previously, combined with the ongoing regulatory review process, should suffice to give the regulated community adequate notice of the requirements of the rulemaking to allow for planning and design.

*Subchapter A*

*"Consumptive use"*

A commentator suggested that the "reregulation" of large heating oil ASTs should be deleted from the final-form rulemaking because although these ASTs do pose risks, they are already regulated under 40 CFR 112.8(c) (relating to Spill Prevention, Control, and Countermeasure Plan requirements for onshore facilities (excluding production facilities); Bulk storage containers). In addition, the commentator was concerned that the 30,000-gallon capacity for inclusion in the definition of consumptive use was arbitrary and suggested a change to only include ASTs of 50,000 gallons or less capacity.

The Board agrees with the commentator that this class of ASTs poses risks and should be regulated. Further, we believe that regulation of these ASTs is consistent with the original intent behind the act, and they should therefore be regulated under that Storage Tank Act. That is true regardless of the existence of a Federal program that also regulates these tanks; the Commonwealth's regulatory program contains many items missing from the Federal Oil Pollution Act of 1990, act of August 18, 1990 (Pub. L. No. 161-380, 104 Stat. 484). A critical argument in favor of independent act regulation from the Board's perspective is the ability to respond to releases from the tanks under the Commonwealth's authority, rather than waiting for Federal action that may not be forthcoming.

As for the size cutoff, the Board does not agree that the proposed definition is "arbitrary and capricious." The "30,000 gallons capacity" cutoff is valid because that size AST is generally the largest size AST that is routinely manufactured, as that term is used in § 245.1 (see, for example as, definition of "aboveground manufactured metallic storage tank"). Thus, most ASTs regulated by this amendment will require some level of fabrication and assembly at the tank facility. "Field-constructed" tanks are safe and effective when properly installed, but such proper installation requires specialized expertise to accomplish and so it is particularly important to regulate those ASTs with over 30,000 gallons capacity. For these reasons, the definition is retained unchanged in the final-form rulemaking.

*"Regulated substance"*

The Board received several comments about the proposed expansion in the definition of "regulated substance," and the final-form version of this definition reflects several changes from the proposed rulemaking. The primary focus of these comments was on the addition of substances included on a list maintained by the Department of Labor and Industry in 34 Pa. Code Chap-

ter 323 (relating to hazardous substance list) (Chapter 323 list). Concerns expressed included the breadth of the Chapter 323 list, the focus of that list on worker safety rather than environmental concerns, the obscurity and age of the Chapter 323 list and the fact that the list is outside of the jurisdiction of the Department and the Board.

After further review of the Chapter 323 hazardous substances list, the Board removed this proposed amendment from the final-form rulemaking. The number of substances on the Labor and Industry list, but not already on the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) list, is fairly limited. Further, at this time, the Board does not have specific information concerning the number or size of storage tanks containing those limited substances. Therefore, this amendment has been removed from the final-form rulemaking.

IRRC expressed a concern that the definition contained several "substantive" provisions. Specifically, IRRC was concerned that each of the subsections includes provisions that specify when a substance would be regulated or not regulated. The Board does not agree with IRRC that the proposed changes are substantive in nature and maintains that the changes are definitional in that they define in which class of "regulated substance" certain compounds will be included (that is, either hazardous substances or petroleum).

The final-form rulemaking has been amended to reflect treating newly regulated substances in subparagraph (i)(C)(I) (nonpetroleum oils) and (II) (pure ethanol) the same as petroleum in subparagraph (i)(B) of the definition of "regulated substance." The actual substantive requirements are found later in Chapter 245, where the definitional distinction directs regulated entities to the proper requirements for their tank (see, for example, § 245.443 (relating to requirements for hazardous substance underground storage tank systems)). The General Assembly already addressed conditional differences between petroleum and hazardous substances in the definition of "regulated substance" in section 103 of the act (35 P. S. § 6021.103).

The last change to this definition in the final-form rulemaking replaces the "Compounds for use as additives in gasoline" category in subparagraph (i)(C)(II) with ethanol in its pure, unblended state. Most ethanol is denatured with more than a de minimis amount of petroleum when intended for use as fuel, and would therefore be regulated as "petroleum" under subparagraph (i)(B). This amendment limits this definition and addresses the concern raised by IRRC, previously.

#### *§ 245.41. Tank registration requirements.*

Several commentators noted that because all USTs and ASTs put into temporary closure will no longer be in operating status, this section should be amended to address Department withdrawal of the out-of-service tank's operating permit. The Board agrees, and this section has been amended in the final-form rulemaking to include routine withdrawal of the operating permit when a tank is reported in temporary closure or temporary out-of-service status.

One commentator was concerned that the requirements in subsection (f)(4) could cause excessive or frequent notification to the Department. The commentator requested that notification requirements should not apply when minor changes in tank product storage occur. For example, products such as kerosene and diesel fuel are

very similar in composition and storage tanks are often switched back and forth between these products depending on inventories and supply demands. The commentator suggested that notification of changes in substances stored should only apply when there is a significant change, such as a change from a petroleum product to a hazardous substance, and not when a change is only in the type of petroleum product (such as, from diesel to kerosene). The Board recognizes that some operations change substances frequently because of business practices and included the ability to address this issue in the final-form rulemaking. The substance in a tank is important, however, as the substance stored determines technical regulatory requirements and Underground Storage Tank Indemnification Fund (USTIF) billing.

#### *§ 245.43. Failure to pay registration fee.*

The IRRC raised several enforcement-related issues concerning this section of the proposed rulemaking. First, the IRRC was concerned about the Board's authority to include the language in proposed subsection (a) stating that an owner who fails to pay the registration fee shall be subject to "Commonwealth policy and guidelines" for collection of delinquent debts due the Commonwealth. To a large degree, this language is included here merely to put the regulated community on notice of the consequences of failure to pay this fee (see, for example, 25 Pa. Code § 245.212(b) (relating to minimum requirements for obtaining a permit-by-rule); therefore, the "shall" in this section has been changed to "may." The Board notes, however, that there is a Management Directive, 310.10, relating to Collection, Requests for Compromise, and Write-Off of Delinquent Claims, that directly establishes an applicable process. The Department's Storage Tank Program follows Management Directive 310.10 when collecting delinquent registration fees, along with exercising other enforcement options (such as, civil penalties, administrative orders, withholding or revoking permits, and the like). In addition, any enforcement policy of the Department undergoes public notice and comment, along with review by the STAC, and is available from the Department directly or on the Department's website. Therefore, the language is retained in the final-form rulemaking.

IRRC noted that subsection (b) states that failure to pay the registration fee could result in Departmental action against the storage tank owner and the operator. Section 245.42(a) and (b) (relating to tank registration fees), states that registration fees are to be paid by tank owners. Therefore, IRRC requested that the reference to tank operators be deleted from those subsections. The Board acknowledges that the act places the responsibility to pay annual registration fees on the owner of the aboveground (35 P. S. § 6021.303(a)) or underground (35 P. S. § 6021.503(a)) storage tank. Those same subsections contain language that states:

It shall be unlawful for any owner or operator to operate or use, in any way, any [aboveground or underground] storage tank that has not been currently registered as required by this section.

Therefore, although the obligation to register the regulated storage tank rests with the tank owner, operation of a regulated storage tank that is not properly registered is also a violation of the act. The intention of this section was to put the operator on notice of this requirement, and of the potential liability for operating a regulated storage tank for which annual registration fees have not been paid. The proposed language is retained in the final-form rulemaking.

Finally, IIRC was concerned about the language in subsection (c) stating that the Department may withhold an operating permit for a tank if the owner has a delinquent registration debt for any regulated storage tank. IIRC questioned what circumstances would lead the Department to withhold a permit. Failure to pay required registration fees is a violation of either section 303(a) (aboveground) or 503(a) (underground) of the act. Section 1301 of the act (35 P. S. § 6021.1301) establishes the criteria upon which the Department may withhold or revoke a permit under the act. The Department is bound by and follows section 1301 of the act when making decisions concerning the withholding or revoking of operating permits for storage tanks.

*Subchapter B*

*§ 245.110. Certification of installers.*

The USTIF raised a concern about the proposal to eliminate separate categories for aboveground and underground installers. The USTIF was concerned that the change would make it difficult to properly and accurately bill fees for the Tank Installers Indemnification Program (TIIP), particularly with regard to new companies or companies that previously had only worked on ASTs but now want to work on USTs as well. The final-form rulemaking retains the existing, separate categories for underground and aboveground tank installers in the final-form rulemaking.

*§ 245.114. Renewal and amendment of certification.*

Several commentators noted that in subsection (c), for the certification category AMNX, the proposed requirement of 12 installations or major modifications needed for renewal of certification is excessive. Very few nonmetallic ASTs are installed or modified today. This requirement should be changed to six installations or major modifications. The Board acknowledges the commentators' concern. The number of activities for renewal should be equal to the number of activities required for initial certification. Proposed activity requirements have been adjusted for all categories in the final-form rulemaking. For the AMNX category, the Board has changed the activity requirement from 12 to 9 activities in the final-form rulemaking.

The Board received several comments concerning the transition proposed in this section concerning renewal from qualifications based on activities to qualifications based on training. Specifically, commentators were concerned that more detail was needed in the regulations on what specific training meets these requirements. Among the suggestions for amendments was a requirement for a minimum annual continuing education for certified installers and inspectors, or at least establishing a minimum number of hours of training for each category. Clarifying language concerning the difference between technical training requirements for initial and renewal of certification and course expectations has been added to the final-form rulemaking, but no minimum number of hours of training requirements are established. The Board believes that flexibility will be needed to require training when appropriate. In some instances this might require more than the suggested minimum requirements, and for specific certification categories less training might be acceptable. Because the training courses are category-specific and approved by the Department, based on course outline and content, there is no need or desire to assign credit hours for a course or require a specific number of training hours for renewal. Course content is the important factor, not the time spent in training.

*Subchapter C*

*§ 245.203. General requirements for permits.*

*§ 245.222. Application requirements.*

A commentator noted that because all USTs and ASTs put into temporary closure will no longer be in operating status, these sections should be amended to address Department withdrawal of the out-of-service tank's operating permit. These sections are amended in the final-form rulemaking to include routine withdrawal of the operating permit when a tank is reported in temporary closure or temporary out-of-service status. This revision correlates with changes in the final-form rulemaking to § 245.41.

*§ 245.231. Scope.*

Two commentators requested that the proposed rulemaking be amended to create an exemption from the requirement to obtain an SSIP in the situation when a new large AST replaces an existing tank at the same location. Although the final-form rulemaking does not contain such an exemption, it does reduce the required submissions for an AST being constructed on the footprint of a previous AST.

*Subchapter E*

*§ 245.405. Codes and standards.*

One commentator raised a concern over the proposed language stating that "[r]egulatory requirements prevail over codes and standards whenever there is a conflict." The commentator suggested that the Department should list those conflicts either directly in the regulations or in some publicly accessible manner. Given the detailed nature of the industry standards and codes applicable to the storage of regulated substances in USTs, it would be administratively difficult to list every instance of conflict. This would also be a shifting target, since generally the industry codes and standards are updated or amended more frequently than the Chapter 245 regulations. In many instances, the conflict is in the nature of a mandatory command in the regulations ("owner shall do X"), versus a discretionary option in a code or standard ("owner may do X"), or a firm deadline for an action established in the regulations versus an open-ended code or standard. Given the highly fact-specific nature of these issues, the Board has retained the proposed language in the final-form rulemaking, and recommends contacting the Storage Tank Program to determine whether or not a conflict truly exists.

IIRC raised three concerns about this section. The first concern targeted the use of the indefinite phrase "when appropriate" in this section. The Board acknowledges IIRC's concern. The final-form rulemaking has been amended to simply delete the phrase "when appropriate" or to replace it with "when approved by the Department."

Second, IIRC questioned the inclusion of the phrase "will not automatically be required to be upgraded to meet the new standards." The IIRC felt that use of the term "automatically" implies that the facilities or storage tank systems may have to be updated in the future, and suggested that the final-form regulation should include specific details on when the upgrades will be required. The rationale behind this language is to indicate that the industry standard in effect at the time the activity is done is the industry standard that should be followed. It may be appropriate in certain circumstances (such as, when there is an imminent threat to public safety) to require tank owners to meet an updated industry stan-

dard. Meeting the new requirement could involve a specific facility or it could be an industry-wide change. It is nearly impossible to anticipate every instance in which the upgrades might be necessary. If the Department were to require upgrades, however, it would do so only by means of notice to the affected tank owners. To clarify this, the Board added language to the final-form rulemaking indicating that existing tanks will not be required to automatically upgrade to a new standard, unless the revised standard or the Department specifies that upgrade is required.

Finally, IRRC was concerned with the language in subsection (d) which states: "Regulatory requirements prevail over codes and standards whenever there is a conflict." IRRC commented that this provision is not needed because regulations have the full force and effect of law and already prevail over codes and standards, but that if the Board decided to retain this provision, similar language should also be added to §§ 245.504 and 245.604 (relating to referenced organization). The Board does not agree with the commentator regarding the necessity of this language. After all, the industry standards are incorporated by reference into the regulations in this section. Absent this language, it is at least arguable that the industry standard would prevail over the conflicting regulatory requirement. To the extent that the commentator suggests adding similar language to other sections, the Board agrees and has made the recommended changes to the final-form rulemaking.

*§ 245.411. Inspection frequency.*

Several commentators commended the Department for proposing to require operator training when related violations are documented through an inspection, but noted that the proposed rulemaking does not appear to meet the requirements for routine operator training contained in the Energy Policy Act. The Board agrees with the commentators that the rulemaking only addresses owner and operator training in the context of verification of violations. The Energy Policy Act does contain requirements for additional training for owners and operators whose storage tank systems are determined to be out of compliance. The final-form rulemaking does not, however, address the Energy Policy Act requirements concerning routine operator training. The Energy Policy Act did not require the EPA to develop guidelines for this requirement until August 2007 (42 U.S.C.A. § 6991i(a)(1)), and the EPA has not released draft grant guidelines on this issue for public comment to date. Further, Pennsylvania and other states are not required to have routine operator training requirements in place until August 2009 (42 U.S.C.A. § 6991i(b)). The final-form rulemaking retains subsection (d), however, to address owner and operator training after verification of violations.

In response to several comments, this section of the final-form rulemaking is also amended to include a phase-in period for routine inspections of tanks that have current inspection due dates greater than 3 years at the time of final adoption of the rulemaking. This phase-in period is consistent with the August 8, 2010, deadline that the EPA has established for meeting the 3-year inspection frequency requirements in the Energy Policy Act.

Finally, in response to a comment from IRRC, the final-form rulemaking has been amended to include examples of the type of training that could be used. Because the Department will typically require the training as part of the enforcement follow-up after the verification of facility violations, the specific course necessary will be

addressed at that time. The final-form rulemaking is also amended to note that the tank owner or operator shall incur the cost of the training.

*§ 245.421. Performance standards for underground tank systems.*

Several commentators raised concerns about the proposed amendments to this section as they related to options granted to the states to comply with the Energy Policy Act. Primarily, these commentators were concerned that the requirement for total secondary containment of all new and replacement USTs is more stringent than the secondary containment requirement included in the Energy Policy Act, which is limited to USTs located near navigable waters or drinking sources, and that this requirement would cost Pennsylvania UST owners a great deal of additional money for little environmental benefit.

The Board agrees that the total secondary containment regulation is new and is more stringent than the secondary containment option included in the Energy Policy Act. The Pennsylvania UST program will require total secondary containment for new and replacement UST systems throughout this Commonwealth while the Federal program would require total secondary containment only if the tank system "is within 1,000 feet of any existing community water system or any potable drinking water well." 42 U.S.C.A. § 6991b(i)(1). Further, the Department has acknowledged in the past and continues to acknowledge that the UST system equipment costs are increased with the total secondary containment requirement. Even so, the Board believes that the approach outlined in the final-form rulemaking is in the best interest of the regulated community, the public, the environment and the Department.

First and foremost, requiring total secondary containment for new and replacement UST systems (double walled tanks and piping with sumps at tank and piping junctions, and under dispensers) will provide the maximum protection against releases of regulated substances. Federal study indicates total secondarily-contained systems have fewer failures or releases of regulated substances than single-walled UST systems. Fewer releases, and less severe releases, means less exposure to the public and environment to those regulated substances, and fewer resources needing to be devoted to corrective action. Interested parties currently incur those costs—the Department (both in terms of oversight of responsible party corrective action and direct state-lead corrective action), the USTIF, the regulated community and the public. The public may be impacted directly, for example, where a homeowner's drinking water well is impacted, or indirectly, through the imposition of the "per gallon throughput" USTIF fee paid on each gallon of gasoline sold in this Commonwealth.

Second, since 1998, Department records show approximately 60% of tanks and 80% of piping systems installed in this Commonwealth have been double-walled. Thus, the Department does not expect a major impact on industry practices from this decision. The regulated community already appears to realize the benefits of installing protective systems. The installer community already recommends installation of these systems, and notes that there is only very minimal increased installation cost associated with a total secondary containment UST system.

In addition to the benefits of a Statewide "total secondary containment" option, there are several reasons why the Board does not believe that the Energy Policy Act's "1,000 foot" limitation makes sense. First, the Board notes

that the act contains a presumption of liability in section 1311 of the act (35 P. S. § 6021.1311(a)):

for all damages, contamination or pollution within 2,500 feet of the perimeter of the site of a storage tank containing or which contained a regulated substance of the type, which caused the damage, contamination or pollution.

At a minimum, then, the "total secondary containment" option in this Commonwealth should extend to 2,500 feet.

The Department also notes that the Federal "total secondary containment" option only extends protection to "existing community water systems" and "existing potable drinking water wells." The Board agrees that protecting those items is crucial, but protecting those items alone is not enough. Other items that are also deserving of protection, but not covered by the Energy Policy Act, might include:

- planned locations for new community water systems or new potable drinking water wells;

- the entire extent of aquifers used to provide drinking water (the Energy Policy Act requirements are unclear as to whether or not the aquifer is protected, or only the well itself);

- wells providing water for "agricultural purposes," as that phrase is defined in 25 Pa. Code § 250.1 (relating to definitions);

- buildings with subsurface features that might be impacted by vapors from a release;

- "waters of the Commonwealth," as that phrase is defined in section 1 of The Clean Streams Law (35 P. S. § 691.1); and,

- other water supplies ("water supply" is defined in section 245.1 as "[e]xisting, designated or planned sources of water or facilities or systems for the supply of water for human consumption or for agricultural, commercial, industrial or other legitimate use, protected by the applicable water supply provisions of § 93.3 (relating to protected water uses)").

By requiring total secondary containment for all new and replacement UST systems, the rulemaking protects these other items to the same extent the Energy Policy Act protects certain water supplies.

The Board further notes that extending the total secondary containment requirement Statewide avoids a significant administrative burden. This burden consists of the effort required to determine whether or not a new or replacement UST system falls within the Energy Policy Act's limits, when the information can even be determined with any accuracy. Whether or not that burden is borne by the Department or the regulated community, it may swallow up any cost savings associated with the installation of a "lower quality" single-walled UST system. It should also be noted that there would be a delay in installation due to the necessity of conducting this review and making this determination that is avoided by the Department's preferred Statewide approach. This delay could also include any litigation before the Environmental Hearing Board (including third-party appeals) over the Department's decision that a particular UST system is or is not within 1,000 feet of a protected feature.

Finally, the Department notes that there is the possibility of decreases in USTIF fees in the future as the UST system population in this Commonwealth is replaced by the more protective total secondary containment systems.

For all of these reasons, the Board believes that the approach outlined in the final-form rulemaking is in the best interest of the regulated community, the public, the environment and the Department, and so that approach is retained in the final-form rulemaking.

A second concern raised by a commentator regarding the proposed amendments to this section is directed to the option offered by the Energy Policy Act for states to protect groundwater through a combination of UST installer certification, and the maintenance of financial responsibility by UST installers along with manufacturers of USTs and piping systems.

In supporting the "financial responsibility and certification" option for protecting groundwater over the "total secondary containment" option, the commentator appears to overlook a critical, and from our perspective, insurmountable obstacle to implementing that option. That obstacle is the requirement that:

A person who manufactures an underground storage tank or piping for an underground storage tank system . . . is required to maintain evidence of financial responsibility under section 9003(d) in order to provide for the costs of corrective actions directly related to releases caused by improper manufacture . . .

42 U.S.C.A. § 6991b(i)(2)(A). As a preliminary matter, it appears that the General Assembly might need to amend the act to allow the Department to require, through regulations, the "manufacturer financial responsibility." Even if such a requirement was authorized, however, it is difficult to see how the requirement could be implemented at the State level. Most manufacturers are located outside of this Commonwealth's jurisdiction, with their products coming into this Commonwealth through interstate commerce. Commerce is traditionally a Federal concern, and there are limits on the states' ability to regulate commerce. If that hurdle were not high enough, the Department will be hard-pressed to pursue enforcement actions or cost recovery against manufacturers located outside of this Commonwealth. Finally, an informal survey of other state's agencies implementing the UST program revealed that the overwhelming majority of other states are meeting the Energy Policy Act requirement through the secondary containment option.

Addressing the commentator's second concern, the Board acknowledges the additional requirements placed on the Commonwealth by the Energy Policy Act. The most implementable alternative, from an administrative perspective, is to meet the groundwater protection requirements by having all new and replacement UST systems be installed with total secondary containment. This avoids the need to implement a new manufacturer financial responsibility program, and avoids the burdens of attempting to determine whether a new or replacement UST is located in an area protected under the EPA grant guidelines.

The proposed amendment to § 245.421(b)(2) (relating to performance standards for underground storage tanks systems) required upgrading of all piping associated with a UST system to satisfy secondary containment standards whenever more than 30% of the system piping is going to be replaced. Several commentators expressed concern that this requirement was too stringent, and the final-form rulemaking has been amended to reflect the requirement that replacement of all piping that routinely contains and conveys regulated substances from the tank with secondarily-contained piping must occur only when more than 50% of this piping is replaced.

Several commentators went further, and suggested that replacement of piping with identical materials should not trigger the upgrade requirement, regardless of the percentage of piping replaced (up to and including 100%). The Board does not agree and believes that this would be in conflict with the Energy Policy Act (see, Final Secondary Containment Grant Guidelines, issued by the EPA on November 15, 2006, pages 4-5). Piping associated with USTs is a significant source of contamination in the Commonwealth. When piping replacement is over the 50% threshold, the replacement must meet the new UST system standards, that is, total secondary containment piping, rather than simply replacing old piping with equipment that is less protective than total secondary containment.

In response to comments, this section of the final-form rulemaking has been amended to clarify that the double walled piping requirement applies only to piping that routinely contains a regulated substance, which does not include vapor recovery, vent or fill piping.

Finally, subsection (a) is amended in the final-form rulemaking to designate those that can certify the system installation, when it must be certified and what documentation must be provided to the Department. These additions are consistent with tanks initially installed for storing regulated substance and for reuse of removed tanks.

*§ 245.422. Upgrading of existing underground storage tank systems.*

A major concern raised with the proposed amendments to this section concerned the requirement that release detection equipment be upgraded for systems using interstitial monitoring or electronic line leak detection from an alarm to an automatic shut-off device. The Board acknowledges the commentator's concerns about a potentially major upgrade program. The final-form rulemaking has been amended to require upgraded release detection and line leak detectors only for new and replacement UST systems. Questions about line leak detectors and concerns that they should only apply to pressurized piping systems have been addressed and clarified in § 245.445 (relating to methods of release detection for piping) of the final-form rulemaking.

In response to comments, the final-form rulemaking paragraph on interior lining explicitly references API RP 1631 and National Leak Prevention Association (NLPA) Standard 631 "Entry, Cleaning, Interior Inspection, Repair and Lining of Underground Storage Tanks."

*§ 245.432. Operation and maintenance including corrosion protection.*

The final-form rulemaking has been amended to indicate that no amount of water is desirable in gasoline containing ethanol. The proper management of water is a good beginning to this task, especially in gasoline tanks containing ethanol additives.

The IRRC raised a concern that under subsection (f), excess water in petroleum tanks must be disposed in accordance with "applicable State and Federal requirements," suggesting that the final-form regulation should reference the applicable requirements. The Board notes that this language is included in Chapter 245 to put tank owners, operators and certified individuals on notice that requirements outside of the act may apply to the management of excess water removed from a petroleum UST. The proper management of excess water removed from petroleum USTs is determined on a case-by-case basis depending on the particular characteristics of the contaminated

water and the end use of the material. Therefore, tank owners, operators and certified individuals faced with the question of proper handling should contact the Department's Waste Management Program in the regional office where the facility is located for detailed assistance. The final-form rulemaking has been amended to show examples of state and Federal requirements.

*§ 245.435. Reporting and recordkeeping.*

One commentator raised a concern about the availability of records for existing facilities when a change in ownership occurs. Short of excavating the system, appropriate records are the only method of establishing what cannot be seen. Failure to maintain records, either through an ownership change or other circumstances should not be an excuse. Current state regulations and Federal requirements in 40 CFR 280.20(b)(3)(ii) require the retention of these records for the operating life of the piping system. In deference to the commentator's concern, subsection (b)(2)(ii) has been amended in the final-form rulemaking to indicate that some similar form of information that demonstrates compliance with § 245.421(b)(2)(ii)(B) and § 245.422(b)(2) and (c)(2) (relating to upgrading of existing underground storage tank systems) may be acceptable.

The final-form rulemaking has also been amended to require owners and operators to only maintain the most recent or last tightness test records of containment sumps and dispenser pans as listed in subsection (b)(3)(viii) of the final-form rulemaking.

*§ 245.441. General requirements for underground storage tank systems.*

A reference to the interstitial section of the subchapter has been added to the final-form rulemaking to clarify that interstitial monitoring is the method to use to monitor the interstice and a future date to meet this requirement has also been added.

*§ 245.444. Methods of release detection for tanks.*

Several commentators raised concerns regarding the need for a professional geologist for certain methods of release detection. The Board acknowledges that the language in the proposed rulemaking may have been too limiting, yet concerned that professionals with proper experience and credentials perform work associated with regulated storage tanks. For those reasons, this requirement is deleted in the final-form rulemaking. In its place, the final-form rulemaking contains a broad requirement similar to that already found in the corrective action process regulations in § 245.314 (relating to professional seals). If an activity consists of a practice regulated by the Engineer, Land Surveyor and Geologists Registration Law (63 P. S. §§ 148—158.2), a properly licensed individual shall perform the activity or provide a seal on a report submitted to the Department. The Department of State administers that statute and retains authority over its implementation. However, section 501(a)(2) and (7) of the act requires the Department to develop and implement a regulatory program concerning leak detection systems and the proper installation of USTs. Because the laws of the Commonwealth require that properly qualified individuals carry out certain tasks relating to storage tanks, the final-form rulemaking reflects those requirements.

In response to a comment, the final-form rulemaking has been amended to remove the requirement for the tank to be filled to the overfill set point when using an automatic tank gauge (ATG) to perform a tank tightness test. The requirement for certification of an ATG in

paragraph (4) applies only to an ATG installed prior to December 22, 1990, as established in Federal requirements at 40 CFR Part 280, which were not certified by the ATG manufacturer to perform product monitoring that can detect a 0.2 gallon per hour leak rate (not a tank tightness test). The final-form rulemaking has been amended to clarify this issue.

*§ 245.445. Methods of release detection for piping.*

In response to concerns raised by a commentator regarding replacing automatic line leak detectors (aLLD) on an existing system with a leak detector that shuts off the flow of product when triggered, the final-form rulemaking is amended to require only the upgrade of an existing line leak detector to an aLLD that shuts off the flow of product, when the entire piping system to the dispenser or the entire release detection system is replaced. Paragraph (1) of the final-form rulemaking explicitly allows for other line leak detection devices besides electronic line leak detectors to meet aLLD requirements.

*§ 245.451. Temporary closure (out-of-service).*

In response to comments, several changes have been made to this section of the final-form rulemaking. First, the final-form rulemaking has been amended to reflect the waiver of inspections and withdrawal or withholding of operating permits when tanks are placed in temporary closure or out-of-service status. Second, the final-form rulemaking has been amended to require that a temporary out-of-service UST be emptied within 30 days or prior to reporting the UST change in operating status to the Department, whichever occurs first, unless notified otherwise by the Department. The final-form rulemaking also establishes a time frame and conditions for long-term retention of an UST in temporary out-of-service status.

*§ 245.453. Assessing the site at closure or change-in-service.*

A commentator expressed a concern that subsection (a) appeared to incorporate a guidance document by reference. This was not the Board's intent. The final-form rulemaking has been amended to clarify that the standard of performance established by this section is for the tank owner/operator to "measure for the presence of a release where contamination is most likely to be present at the underground storage tank site" upon closure of the UST. If a tank owner/operator chooses to follow the Department's technical guidance document, the owner will have met the standard of performance. Alternatively, the tank owner/operator may choose not to follow the guidance document, but instead use another process for proper site assessment that equally protects the public and the environment and that meets all regulatory and statutory requirements.

*Subchapter F*

*§ 245.523. Aboveground storage tanks in vaults.*

IRRC raised a concern about the proposed amendments to this section, specifically that paragraph (11) requires certain underground piping distribution systems to "be appropriately monitored," which is an indefinite term. The final-form rulemaking has been amended to clarify that the underground piping must be monitored as required in paragraph (7) and monitoring records retained for 12 months as required under § 245.516 or § 245.615 (relating to recordkeeping requirements).

*§ 245.541. Overfill prevention requirements.*

Several commentators raised concerns about the proposed amendment to subsection (e), arguing for allowing

for the use of a visual gauge, in lieu of a high-level alarm, if the large AST also has a manned operator shutdown procedure. The installation of high-level alarms will require emptying and cleaning of the large ASTs prior to working on them. That is an expensive and potentially dangerous proposition, and is not justified prior to the next scheduled removal from service (that is, an out-of-service inspection). The Board acknowledges the commentators' concerns. The current regulatory requirements for installation of high-level alarm when a large AST is taken out-of-service have been in place since October 11, 1997, and the Board believes these requirements are appropriate. No additional deadlines are necessary for these tanks. However, ASTs that do not routinely undergo out-of-service inspections may still need to address overfill prevention. Therefore, the final-form rulemaking has been amended to reflect overfill protection requirements consistent with National industry standards, such as API 2350, NFPA 30 or PEI RP 200 for saddle-mounted ASTs and ASTs that are not routinely required to conduct out-of-service inspections.

*§ 245.542. Containment requirements for aboveground storage tank systems.*

Several commentators raised concerns over the proposed language, which appeared to mandate the use of Department guidance documents to comply with the requirements to verify permeability of emergency containment structures. The final-form rulemaking is amended to clarify that the standard of performance established by this section is "verification by a professional engineer that the emergency containment structure, coupled with the tank monitoring program and response plan is capable of detecting and recovering a release and is designed to prevent contamination of the waters of this Commonwealth." If a tank owner chooses to follow the procedures in the technical guidance document, the owner will have met the standard of performance. Alternatively, the tank owner/operator may choose not to follow the guidance document, but instead use another verification process that equally protects the public and the environment and that meets all regulatory and statutory requirements. In addition, examples of industry standards on test methods for determining permeability (such as, various ASTM methods and engineering standards listed in API Publication 351) have been added to this section of the final-form rulemaking.

*§ 245.543. Leak detection requirements.*

Two commentators requested clarification on the issue of the timing of testing ASTs for tightness. The current requirement for testing the AST is applicable to both in-service and out-of-service inspections. However, the Board believes that changes in § 245.553(c) (relating to out-of-service inspections) reflecting nondestructive examinations that must be performed during an out-of-service inspection now adequately satisfy evaluation of the tank bottom during the out-of-service inspection. Therefore, the final-form rulemaking has been amended to only require a separate leak test during the in-service inspection for tanks not having secondary containment (double bottoms), tank lining or corrosion protection.

Another commentator noted that API Publication 334, A Guide to Leak Detection for Aboveground Storage Tanks, describes methods for detecting leaks, which is not necessarily the same thing as "tightness testing," which the proposed rulemaking was intended to address. In response, the final-form rulemaking has been amended to require a leak test, rather than testing for tightness. This is consistent with the testing terminology in API Publica-



tion 334. Further, specific leak test methods that will satisfy this requirement have been added to this section of the final-form rulemaking.

The IRRC raised several questions with regard to subsection (d). The final-form rulemaking has been amended and the requirement for certification clarified. The final-form rulemaking also addresses the test methods that may be used to satisfy the testing requirement and that a third-party inspector or an industry technician experienced in the test method and certified under American Society for Nondestructive Testing (ASNT) standards recognized by the test equipment manufacturer must perform the test. The STAC recommended that the tests to be performed by a third-party expert and not an employee of the tank owner and the leak tests be conducted as part of the inspection process. Typically, industry leak testing experts other than employees of the tank owner perform such highly technical work on ASTs, and the Board believes that this approach is appropriate.

*§ 245.561. Permanent closure or change-in-service.*

Several commentators noted that the proposed rulemaking language appeared to mandate the use of Department guidance documents to comply with the requirements to properly close large AST systems. This was not the Board's intent. The final-form rulemaking has been amended to clarify that the standard of performance established by this section is for the tank owner/operator to "complete a site assessment to measure for the presence of any release from the storage tank system" upon closure of the AST. If a tank owner/operator chooses to follow the Department's technical guidance document, the owner will have met the standard of performance. Alternatively, the tank owner/operator may choose not to follow the guidance document, but instead use another process for proper site assessment that equally protects the public and the environment and that meets all regulatory and statutory requirements.

*§ 245.562. Temporary removal-from-service.*

In response to several comments, this section of the final-form rulemaking has been amended to allow routine scheduled service inspections to be delayed on tanks that are in temporary closure or out-of-service status. The delayed inspections must be performed, submitted to the Department and deficiencies remedied prior to placing regulated substance back into the tanks and returning them to operational service.

Several commentators suggested that the requirement in subsection (f) that temporary out-of-service large ASTs to be closed within 5 years be replaced with unlimited temporary closure combined with in-service and out-of-service inspections. The Board does not believe that an unlimited temporary out-of-service period is appropriate for all large ASTs. However, the final-form rulemaking amends the variance provisions in § 245.503, which may be used to allow for extending the temporary out-of-service time frame where ASTs may need to be retained further for anticipated or potential future operational use.

*Subchapter G*

*§ 245.612. Performance and design standards.*

One commentator requested clarification in subsections (d) and (e) regarding the intention of the Board to have any one of the listed controls meet the need for additional spill and overfill protection on double-walled small ASTs. The measures addressed for double-walled small aboveground storage tanks are required by the EPA to meet Oil Program requirements in 40 CFR 112.7 (relating

to general requirements for Spill Prevention Control, and Countermeasure) and are also reflected in NFPA 30, and PEI Recommended Practice 200 (PEI RP 200) for installation of manufactured aboveground storage tanks. PEI RP 200 provides detailed diagrams with instructions on when specific valves, cutoffs and controls should be used. To help clarify when each of the listed controls are needed, the final-form rulemaking has been amended to include specific reference to PEI RP 200 and NFPA 30. The 3-year delay for tanks containing newly regulated substances and heating oil consumed on the premises has been addressed in the final-form rulemaking in § 245.605 (relating to applicability).

*§ 245.614. Requirements for closure.*

Similar to §§ 245.453 and 245.562 (relating to assessing the site at closure or change-in-service; and temporary removal-from-service), a commentator suggested that this section should be amended to waive service inspections for small ASTs in temporary closure status, or when permits are withheld or withdrawn. Instead, the Department should require inspection of the tanks prior to permitting, or changing the tank status from nonoperating back to operating. The Board acknowledges the commentator's concerns, and the final-form rulemaking has been amended to allow routine scheduled service inspections to be delayed on tanks that are in temporary closure or removal from service status. The delayed inspections must be performed, submitted to the Department and deficiencies remedied prior to placing regulated substance back into the tanks and returning them to operational service.

*Subchapter H*

*§ 245.704. General requirements.*

One commentator requested clarification whether the Board will require submission of individual deductible coverage mechanisms for approval, or if the Board is proposing to deem the listed methods as approved by rule. The Board is not requiring routine submission of individual deductible coverage mechanisms for approval. Rather, the changes are intended only to address the mechanisms an owner may use to meet coverage requirements. The final-form rulemaking has been amended to further clarify this point.

*F. Benefits, Costs and Compliance*

*Benefits*

*Subchapter A:* The changes and additions to definitional terms will provide clearer interpretations of current and amended regulations and will help to ensure that several substances not previously addressed are regulated and treated like other similar (currently regulated) substances to protect public health, safety and the environment. These changes include newly developed fuels or alternatives such as biodiesel, synthetic fuels and ethanol. The reregulation of many large ASTs holding heating oil will help to ensure that these tanks are operated, inspected and eventually upgraded to meet the same protective standards that other currently regulated oil tanks must meet.

The new registration provisions will provide tank owners and the Department a much needed and comprehensive publication of tank registration requirements. These requirements are currently only available through several publications such as fact sheets, program guidance and registration form instructions, and are fractionalized in several sections of the current technical and permitting rules and interim requirements in the act.

*Subchapter B:* The changes to the installer and inspector certification provisions will provide much more flexibility for new certification candidates and renewal applicants. The increased reliance on continued training will help to ensure that certified individuals stay current with changes in industry practices, and take advantage of available recognized industry training. Changes to the company certification provisions will help to ensure that companies are held to the same standards the certified individuals are held to and provides incentive for certified companies to continue investing in training for their certified employees. The changes to standards of performance provisions will help to ensure the quality, proper verification and reporting of work by installers and inspectors.

*Subchapter C:* The changes to permitting provisions will help simplify the site-specific installation permit process for many applicants, while ensuring that appropriate design criteria and engineering considerations are used to mitigate specific conditions that pose potential problems at some tank sites. The changes will also clarify that the tank registration process and single application also serve as the operating permit application. Routine withdrawal of operating permits for tanks that are empty and reported to the Department in temporary closure or removal-from-service status will allow tank owners and operators to delay scheduled inspections and thus defer related inspection costs.

*Subchapter E:* The changes to UST technical requirements will help to reduce the number and significance of releases from UST systems. The changes will help to ensure that best practices and state-of-the-art storage tank systems and ancillary equipment are used, while encouraging new technologies and providing more flexibility through variance provisions. The temporary exclusions for newly regulated tanks will provide owners additional time to plan for and to meet all of the UST technical requirements. The use of totally contained (double-wall) tank systems for new or replacement systems and phase-in of specific release detection methods will significantly aid in preventing future releases and will help to identify and capture leaks before they enter the environment. Fewer and less serious releases should help lower USTIF fees in years to come. More frequent inspections will help to ensure that operational and compliance problems are identified and resolved more quickly, which should also reduce the frequency and severity of releases. Recordkeeping changes will help tank owners to substantiate compliance with Commonwealth requirements and current Federal UST requirements, which are not as clear as they should be.

*Subchapters F and G:* The changes to the AST technical requirements will add clarity, needed references and increase the reliance on appropriate industry practices and publications to achieve the standards set forth in the regulations. AST owners and operators will save considerably with costs associated with in-service and out-of-service inspections, which are delayed or waived for existing tanks placed in temporary removal-from-service status. The additional information on AST system design requirements, engineering specifications and inspection or testing criteria should be helpful in determining when tanks are properly constructed, modified and maintained, and how best to determine suitability for service or to resolve tank system deficiencies noted during construction or inspection. The references to program guidance documents will lead persons to proven technical processes

and procedures that will help them to comply with the regulatory requirements, similar to the current guidance reference in Subchapter E.

#### *Compliance Cost*

*Subchapter E:* The cost of the average UST facility third-party operations inspection is approximately \$350 per inspection. UST owners or operators will incur this cost every 3 years under this rulemaking, rather than every 5 years or 10 years under the current inspection frequencies. The cost of total secondary containment (double-wall) UST systems is approximately 15% to 30% greater than the cost of single-wall UST systems. Costs will vary depending on the types of tank systems and materials used (fiberglass, steel or composite tank wall and hard or flexible piping). These costs are only incurred when new or replacement systems are installed. Approximately 150 UST systems were installed annually during the past 4 years. Department records indicate that 60% of the UST systems and approximately 80% of piping systems installed since 1998 already meet the double-wall requirement. Costs for testing containment sumps for tightness could range from \$50 to \$100. The cost of upgrading a line leak detector that only slows product flow or sounds an alarm, to a line leak detector with an automatic pump shut-off device ranges from \$100 to \$500 depending on availability of electric service and circuitry in the current system. This cost is only incurred when installing new or replacement tank, piping or release detection systems.

Generally, certified companies and tank owners should not incur significant new costs for certified individual training requirements, technical requirements to perform tests on ancillary equipment or to follow industry standards or applicable engineering practices when operating, modifying, installing or inspecting storage tank systems. These are costs that should already be incurred and industry practices that should be currently adhered to. These requirements are reinforced in several areas throughout the final-form rulemaking, but they are not new to the industry. Finally, the Department does not anticipate that it will need any new staff resources or incur significant expenditures as a result of the adoption of the final-form rulemaking.

#### *Compliance Assistance Plan*

At this time, it is not anticipated that the Commonwealth will provide sources of financial assistance to aid in compliance with this final-form rulemaking.

As for technical and educational assistance, the Department currently operates a fairly extensive program of outreach activities designed to assist owners and operators of storage tanks as well as individuals. This program includes a series of fact sheets that focus on single issues in the storage tank program (for example, Leak Detection: Meeting the Requirements); periodic seminars and conferences focusing on storage tank technical and administrative issues; training sessions presented by regional and central office training teams on a variety of issues; many guidance documents addressing technical and policy issues; and a great deal of information available on the Department's website. The Department will revise and update applicable fact sheets, guidance documents, forms and publications to reflect changes necessary as a result of adoption of the final-form rulemaking.

The Department expects these efforts to continue and to intensify after adoption of this final-form rulemaking and as phase-in deadlines approach. The Department will also communicate directly with individuals, companies,

associations, organizations and groups to assist in the understanding and implementation of the rulemaking.

#### *Paperwork Requirements*

Generally, there are very few new paperwork requirements established by this rulemaking. The paperwork requirements addressed with the new registration provisions in Subchapter A follow current processes established by policy and ongoing routine procedures under the act. By further clarifying in Subchapter C that the new storage tank registration provisions and application form will also serve as the tank operating permit application form, the final-form rulemaking avoids two separate applications. Additionally, the amendments to the site-specific installation permit process in Subchapter C for replacement tanks, tanks located on the footprint of previous tanks and new small ASTs at facilities with an aggregate capacity greater than 21,000 gallons, include a shortened application and less paperwork.

The amendments to the certification regulations in Subchapter B attempt to recognize current and ongoing industry training in certification qualifications for all installer and inspector certification categories. Most certified companies already maintain records on their employees training and will welcome recognition of the training for certification. The amendments also shorten the time frame for submission of applications for approval of training providers and will allow the Department to recognize industry training without the submission of an application. For example, the Department will readily recognize training provided by equipment manufacturers and National associations or organizations such as the American Petroleum Institute, the Steel Tank Institute and the Petroleum Equipment Institute.

The UST provisions in Subchapter E contain some new recordkeeping requirements and further clarification of current requirements. However, most of these changes are necessary to demonstrate operational compliance with current regulations and Federal requirements in 40 CFR Part 280, and represent National association and manufacturer's recommendations for installation or operation of UST systems and ancillary equipment.

Finally, there are provisions in Subchapters C, F and G that indicate the Department may request or require the tank owner to submit documentation of construction design criteria and engineering specifications for review. The provisions are addressed in the context of mitigating certain conditions at the storage tank site or correcting inspection findings or deficiencies on AST systems. Tank owners should already be consulting with tank manufacturers, certified companies and design engineers on these issues. The Department anticipates its use of these provisions will be very limited.

#### *G. Pollution Prevention*

Generally speaking, the term "pollution prevention" refers to the minimization of waste generated in a commercial process by altering that process. The storage tank program has a slightly different approach. The goal is to keep regulated substances from being released in the first instance. The programs set out in this rulemaking package and in the current regulations are designed to halt the release and spread of regulated substances from storage tanks located in this Commonwealth. They create a program similar to the cradle-to-grave process with the goal of making sure that the storage tank is installed, maintained, operated, closed and removed in a manner that will minimize the likelihood of a release occurring. If a release does occur, these amendments and regulations

that currently exist in Chapter 245 are designed to detect the release quickly, contain it if possible, and make sure that corrective action is carried out expeditiously, minimizing exposure to the public and the environment.

In this final rulemaking, the Department is attempting to reach or improve upon these goals through a combination of performance standards, with built-in flexibility (including the possibility of a variance) as to how the regulated community achieves the goals, and reliance on industry standards, and trained industry professionals. By taking this approach, the Department hopes to reduce pollution, lower the number of corrective actions that must eventually be performed, decrease the amounts of contaminated soil and groundwater that must be dealt with, and do so in a manner that is flexible, reasonable and cost effective.

#### *H. Sunset Review*

These regulations will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulations effectively fulfill the goals for which they were intended.

#### *I. Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 7, 2006, the Department submitted a copy of the notice of proposed rulemaking, published at 36 Pa.B. 1851 (April 22, 2006) to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Environmental Resources and Energy Committees (Committees) for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on September 19, 2007, this final-form rulemaking was deemed approved by the Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on September 20, 2007, and approved the final-form rulemaking.

#### *J. Findings*

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968, P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and regulations promulgated thereunder in 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law, and all comments were considered.

(3) These regulations do not enlarge the purpose of the proposal published at 36 Pa.B. 1851 (April 22, 2006).

(4) These regulations are necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C of this order.

#### *L. Order*

The Board, acting under the authorizing statutes, orders that:

(a) The regulations of the Department, 25 Pa. Code Chapter 245, is amended by amending §§ 245.1, 245.21, 245.31, 245.102, 245.104—245.106, 245.108—245.114,

245.121—245.125, 245.132, 245.141, 254.203, 245.222, 245.231, 245.232, 245.234, 245.235, 245.311, 245.403—245.405, 245.411, 245.421—245.423, 245.425, 245.432, 245.434, 245.435, 245.441, 245.442, 245.444, 245.445, 245.451, 245.453, 245.503—245.505, 245.514, 245.522—245.524, 245.534, 245.541—245.543, 245.552—245.554, 245.561, 245.562, 245.604, 245.611, 245.612, 245.614, 245.616, 245.704 and 245.707; by adding §§ 245.41—245.43, 245.142 and 245.605; and by deleting § 245.103 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Chairperson of the Board shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for review and approval as to legality and form, as required by law.

(c) The Chairperson shall submit this order and Annex A to the IRRC and the Senate and House Environmental Resources and Energy Committees as required by the Regulatory Review Act.

(d) The Chairperson of the Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau, as required by law.

(e) This order shall take effect immediately upon publication.

KATHLEEN A. MCGINTY,  
Chairperson

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 37 Pa.B. 5447 (October 6, 2007).)

**Fiscal Note:** Fiscal Note 7-395 remains valid for the final adoption of the subject regulation.

#### Annex A

### TITLE 25. ENVIRONMENTAL PROTECTION PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

#### Subpart D. ENVIRONMENTAL HEALTH AND SAFETY

### ARTICLE VI. GENERAL HEALTH AND SAFETY CHAPTER 245. ADMINISTRATION OF THE STORAGE TANK AND SPILL PREVENTION PROGRAM

#### Subchapter A. GENERAL PROVISIONS GENERAL

#### § 245.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

\* \* \* \* \*

*Aboveground storage tank*—One or a combination of stationary tanks with a capacity in excess of 250 gallons, including the underground pipes and dispensing systems connected thereto within the emergency containment area, which is used, will be used or was used to contain an accumulation of regulated substances, and the volume of which, including the volume of piping within the storage tank facility, is greater than 90% above the surface of the ground. The term includes tanks which can be visually inspected, from the exterior, in an underground area and tanks being constructed or installed for regulated use. The term does not include the following, or pipes connected thereto:

\* \* \* \* \*

*Air Pollution Control Act*—The Air Pollution Control Act (35 P. S. §§ 4001—4015).

\* \* \* \* \*

#### *Certification categories*—

(i) Individual certification categories issued to certified installers or certified inspectors to perform tank handling, tightness testing or inspection activities on aboveground or underground storage tank systems and facilities.

(ii) The term includes category specific certifications in one or more of the following:

(A) Storage tank inspector certification categories:

(I) IAF—Inspection of aboveground field constructed and aboveground manufactured storage tank systems and facilities.

(II) IAM—Inspection of aboveground manufactured storage tank systems and facilities.

(III) IUM—Inspection of underground storage tank systems and facilities.

(B) Storage tank installer certification categories:

(I) ACVL—Aboveground storage tank system civil installation and modification.

(II) AFMX—Aboveground field constructed metallic storage tank installation, modification and removal, and aboveground manufactured metallic storage tank modification.

(III) AFR—Aboveground field constructed storage tank system removal.

(IV) AMEX—Aboveground storage tank system mechanical installation, modification and removal.

(V) AMMX—Aboveground manufactured metallic storage tank system installation and modification.

(VI) AMNX—Aboveground nonmetallic storage tank system installation and modification.

(VII) AMR—Aboveground manufactured storage tank system removal.

(VIII) TL—Storage tank liner installation and modification, and underground storage tank liner evaluation.

(IX) UMX—Underground storage tank system installation and modification.

(X) UTT—Underground storage tank system tightness tester.

(XI) UMR—Underground storage tank system removal.

*Certified company*—An entity, including, but not limited to, a sole proprietorship, a partnership or a corporation, which is certified by the Department and employs certified installers or certified inspectors to conduct tank handling activities, tightness testing activities or inspection activities.

\* \* \* \* \*

*Consumptive use*—The term means, with respect to heating oil, that which is stored in an aboveground storage tank of 30,000 gallons or less capacity or that which is stored in an underground storage tank and is consumed on the premises.

\* \* \* \* \*

*Hazardous substance storage tank system—*

(i) A storage tank system that contains a hazardous substance defined in section 101(14) of CERCLA (42 U.S.C.A. § 9601(14)).

(ii) The term does not include a storage tank system that contains a substance regulated as a hazardous waste under Subtitle C of CERCLA, or mixture of the substances and petroleum, and which is not a petroleum system.

\* \* \* \* \*

*New facility—*A storage tank facility which did not exist prior to August 5, 1989.

*Noncommercial purposes—*The term means, with respect to motor fuel, motor fuel not for resale.

*Nontank handling project activities—*Activities performed by a certified individual, certified company or employee of a certified company on a project that may not be tank handling activities, but are part of the certified individual's or company's responsibility while completing tank handling or inspection activities on a storage tank system project.

\* \* \* \* \*

*Person—*An individual, partnership, corporation, association, joint venture, consortium, institution, trust, firm, joint-stock company, cooperative enterprise, municipality, municipal authority, Federal Government or agency, Commonwealth Department, agency, board, commission or authority, or other legal entity which is recognized by law as the subject of rights and duties. In provisions of the act prescribing a fine, imprisonment or penalty, or a combination thereof, the term includes the officers and directors of a corporation or other legal entity having officers and directors.

\* \* \* \* \*

*Pipeline facilities (including gathering lines)—*New and existing pipe rights-of-way and associated equipment, facilities or buildings regulated under the Hazardous Liquid Pipeline Safety Act of 1979 or the Natural Gas Pipeline Safety Act of 1968, codified without substantive change in 1994 by Pub. L. No. 103-272, 108 Stat. 1371 (49 U.S.C.A. §§ 60101–60125) which may include coastal, interstate or intrastate pipelines.

(i) The term includes tanks essential to the operation of the pipeline, such as tanks used to hold substances that operate compressors or pumps directly connected to the pipeline and breakout tanks used solely to relieve pressure surges from the pipeline and then reinject substances from the pipeline back into the pipeline.

(ii) The term does not include tanks which dispense substances to vehicles, railcars, barge or tanker truck transports or tanks at complex facilities which serve as storage tanks or feed stock tanks for the purposes of this chapter.

\* \* \* \* \*

*Regulated substance—*

(i) An element, compound, mixture, solution or substance that, when released into the environment, may present substantial danger to the public health, welfare or the environment which is one of the following:

(A) A substance defined as a hazardous substance in section 101(14) of CERCLA, including hazardous substances that are liquid or gaseous, or suspended therein

regardless of holding temperature, but not including a substance regulated as a hazardous waste under Subtitle C of the Resource Conservation and Recovery Act of 1976 (42 U.S.C.A. §§ 6921–6931).

(B) Petroleum, including crude oil or a fraction thereof and petroleum hydrocarbons which are liquid at standard conditions of temperature and pressure (60° F and 14.7 pounds per square inch absolute), including, but not limited to, oil, petroleum, petroleum mixed with ethanol, fuel oil, oil sludge, oil refuse, oil mixed with other nonhazardous wastes and crude oils, gasoline and kerosene.

(C) Other substances determined by the Department by regulation whose containment, storage, use or dispensing may present a hazard to the public health and safety or the environment, but not including gaseous substances used exclusively for the administration of medical care. This includes the following other regulated substances:

(I) Nonpetroleum oils including biodiesel; synthetic fuels and oils, such as silicone fluids; tung oils and wood-derivative oils, such as resin/rosin oils; and inedible seed oils from plants, which are liquid at standard conditions of temperature and pressure. The requirements in this chapter for petroleum tanks in clause (B) apply for this group of substances.

(II) Pure ethanol intended for blending with motor fuel. The requirements in this chapter for petroleum tanks in clause (B) apply.

\* \* \* \* \*

*Tightness testing activities—*Testing activities which are designed and intended to detect leaks when performing precision tests, volumetric and nonvolumetric tests on underground storage tank systems.

\* \* \* \* \*

*Underground storage tank—*One or a combination of tanks (including underground pipes connected thereto) which are used, were used or will be used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is 10% or more beneath the surface of the ground. The term includes tanks being constructed or installed for regulated use. The term does not include:

\* \* \* \* \*

## TANK HANDLING ACTIVITIES

### § 245.21. Tank handling and inspection requirements.

(a) Tank handling activities shall be conducted by a certified installer except in the case of modification to an aboveground nonmetallic storage tank, which may be modified by the tank manufacturer. Storage tank facility owners and operators may not use persons who are not Department certified to conduct tank handling activities except as noted in this subsection. The certified installer shall perform the tank handling activity or provide direct onsite supervision and control of the activity.

(b) Tank handling activities conducted on all field constructed storage tanks and tank handling activities conducted on all aboveground storage tanks having a capacity greater than 21,000 gallons shall be inspected by

a certified inspector, except in the case of a minor modification or removal from service.

(c) The operation of storage tank facilities shall be inspected by a certified inspector. The frequency of inspection shall be based on:

- (1) The age of the storage tank systems located at the storage tank facility.
  - (2) The type of regulated substances contained in the storage tank systems located at the storage tank facility.
  - (3) The distance of the storage tank facility from public and private surface water and groundwater supplies.
  - (4) The total capacity of the storage tank systems located at the storage tank facility.
  - (5) The geologic conditions at the storage tank facility.
  - (6) Whether the storage tank facility, owner or operator has violated the act or the regulations promulgated thereunder.
  - (7) Whether the storage tank facility has storage tank systems which are periodically taken out of service.
  - (8) Whether there is suspected contamination at the storage tank facility.
  - (9) The level of quality control maintained at the storage tank facility.
- (d) Storage tank facilities shall also be inspected upon written notification from the Department or as required by permit.

#### **TIGHTNESS TESTING ACTIVITIES**

##### **§ 245.31. Underground storage tank tightness testing requirements.**

(a) Tightness testing activities shall be conducted by a Department-certified underground storage tank system tightness tester (UTT), except when performed by an owner or operator using installed automatic tank gauging or monitoring equipment meeting requirements of § 245.444(3) and (4) (relating to methods of release detection for tanks).

(b) Tightness testing is required to be conducted when it is:

- (1) Used as a method of release (leak) detection as prescribed in §§ 245.442(b)(1), 245.443(1), 245.444(3) and 245.445(2).

\* \* \* \* \*

(e) A complete written test report shall be provided to the tank owner as documentation of test results within 20 days of the test. The test methodology, a certification that the test meets the requirements of § 245.444(3) or § 245.445(2) (relating to methods of release detection for piping), and sufficient test data, which were used to conclude that the tank passed or failed the tightness test, shall be included in the test report.

(f) Certified underground storage tank system tightness testers (UTT) shall maintain complete records of tightness testing activities for a minimum of 10 years as provided in § 245.132(a)(3) (relating to standards of performance).

(g) Tightness testing of the underground storage tank system's piping shall be conducted by a Department-certified underground storage tank system tightness tester (UTT) after November 10, 2008.

#### **TANK REGISTRATION AND FEES**

##### **§ 245.41. Tank registration requirements.**

(a) Tank owners shall properly register each storage tank by meeting the requirements of this section and paying the registration fee required by § 245.42 (relating to tank registration fees).

(b) Tank owners shall register each aboveground storage tank and each underground storage tank with the Department, except as specifically excluded by Department policy or this chapter, on a form provided by the Department, within 30 days after installation or acquisition of an ownership interest in the storage tank. Unless otherwise approved by the Department, a regulated substance may not be placed in the tank and the tank may not be operated until the tank is properly registered and the Department approves an operating permit for the tank.

(c) A form for registration of a storage tank must be complete upon submission to the Department and provide the following:

- (1) Tank owner, operator and contact information.
- (2) General facility, site and location information.
- (3) Specific tank description and usage information, including regulated substance or substances that will be stored in each tank.
- (4) Specific tank construction, system components and installation information.
- (5) Owner or owner's representative certification validating the registration information and operating permit application.
- (6) Certified tank installer information and signature (when required).
- (7) Certified tank inspector information and signature for certain classes of tanks addressed in § 245.21 (relating to tank handling and inspection requirements).
- (8) Other applicable information that may be required by the Department.

(d) The owner's registration form shall also serve as an operating permit application. The Department may register a tank and not approve an operating permit for the tank if the application, tank system or the storage tank facility does not meet the requirements of this chapter or the permit applicant is in violation of the act. The Department will automatically withhold or withdraw the operating permit for a storage tank that is reported on the registration form in temporary closure or temporary removal from service (out-of-service) status. Tank owners may not store, dispense from or place a regulated substance in a storage tank that does not have an operating permit unless otherwise agreed upon by the Department. Additionally, certain classes of tanks require a site-specific installation permit prior to beginning construction of a new or replacement storage tank in accordance with Subchapter C (relating to permitting of underground and aboveground storage tank systems and facilities). Submission of a site-specific installation permit application is a separate requirement for these tanks that is not satisfied by the registration form submission.

(e) A combination of tanks that operate as a single unit require registration of each tank unless otherwise agreed upon by the Department. A tank that has separate compartments within the tank shall be registered separately and charged a separate tank fee for each compartment unless the compartments are connected in a manner

that fills, dispenses and operates as a single unit maintaining the same regulated substance at the same operating level in each compartment.

(f) Tank owners shall submit a registration form to amend registration information previously submitted to the Department within 30 days of a change in the previously submitted information. These changes include the following:

(1) Removal or relocation of a storage tank to a new facility.

(2) Temporary or permanent closure or removal from service of a storage tank.

(3) Change in use of a storage tank to or from regulated or nonregulated status, for example, changing a storage tank to use as a process vessel.

(4) Change in substance or substances stored in the tank, unless otherwise agreed upon by the Department.

(5) Change of ownership or change of operator—new and previous owner.

(6) Change of contact, mailing address or telephone number.

(7) Installation of a new or replacement storage tank at an existing facility.

(g) The Department may require submission of supporting documentation and process information for exemption or exclusion from regulation for a tank change in status or use from a regulated to a nonregulated status.

#### **§ 245.42. Tank registration fees.**

(a) Annual registration fees to be paid by owners of aboveground storage tanks are established under section 302 of the act (35 P. S. § 6021.302) as follows:

(1) \$50 for each aboveground storage tank with a capacity less than or equal to 5,000 gallons.

(2) \$125 for each aboveground storage tank with a capacity of more than 5,000 gallons and less than or equal to 50,000 gallons.

(3) \$300 for each aboveground storage tank with a capacity of more than 50,000 gallons.

(b) Annual registration fees to be paid by owners of underground storage tanks are established under section 502 of the act (35 P. S. § 6021.502) as \$50 for each underground storage tank.

(c) The Department will issue an invoice to the tank owner after receipt of a complete registration form under § 245.41(c) (relating to tank registration requirements). A tank owner filing a registration shall remit the appropriate fee upon receipt of the invoice.

(d) Registration expiration dates are established for storage tanks according to facility location. The Department will prorate the registration fee established by this section to reflect the percentage of time remaining in the registration year from the date of initial registration of a storage tank. The Department will not refund registration fees if an owner permanently closes a storage tank or exempts a storage tank through a change-in-service to store a nonregulated substance or change to nonregulated use (such as a process vessel) prior to the expiration of the storage tank's registration.

(e) The Department will issue a certificate of registration to an owner upon payment of the required registration fee. The tank owner shall have the current valid certificate of registration available for inspection by the

Department, certified storage tank inspector or installer and product distributor. At facilities where a regulated substance is sold at retail to the public, the certificate of registration or an exact copy shall be publicly displayed in a noticeable area at the facility.

(f) The Department will issue an annual invoice to the tank owner for the annual renewal of all regulated tanks at the owner's facility once per year, at least 60 days prior to the expiration of the certificate of registration.

(g) Fees are payable no later than 60 days after the invoice date, and will be considered delinquent 90 days after the invoice date.

#### **§ 245.43. Failure to pay registration fee.**

(a) An owner who fails to pay the required registration fee may be subject to Commonwealth policy and guidelines for collection of delinquent debts due the Commonwealth.

(b) Failure to pay registration fees could result in Departmental actions against the storage tank owner and the operator, including revocation of operating permits issued by the Department under this chapter.

(c) The Department may register a tank, but may withhold or deny the operating permit for the tank if the owner has a delinquent registration debt for any regulated storage tank.

### **Subchapter B. CERTIFICATION PROGRAM FOR INSTALLERS AND INSPECTORS OF STORAGE TANKS AND STORAGE TANK FACILITIES GENERAL CERTIFICATION REQUIREMENTS**

#### **§ 245.102. Requirement for certification.**

(a) A person may not conduct tank handling or tightness testing activities unless that person holds a current installer certification issued by the Department for the applicable certification category as indicated in § 245.110 (relating to certification of installers), except as provided in § 245.31 (relating to underground storage tank tightness testing requirements). Installer certification will only be issued by the Department to a person who:

(1) Possesses minimum experience and qualifications as provided under § 245.111 (relating to certified installer experience and qualifications).

(2) Achieves a passing grade on a certification examination administered or approved by the Department for one or more of the certified installer categories described in § 245.110 for which the person is requesting certification.

(3) Submits an accurate and complete application.

(4) Is not found to be in violation of the act or this chapter, or has not had a certification revoked by the Department under § 245.109 (relating to revocation of certification).

(b) A person may not conduct inspection activities at a storage tank system or storage tank facility required by the Department under the act and this part unless that person holds a current inspector certification issued by the Department for the applicable inspector certification category. Inspector certification will only be issued by the Department to a person who:

(1) Possesses minimum experience and qualifications as provided under § 245.113 (relating to certified installer experience and qualifications).

(2) Achieves a passing grade on a certification examination administered or approved by the Department for

one or more of the certified inspector categories described in § 245.112 for which the person is requesting certification.

(3) Submits an accurate and complete application.

(4) Is not found to be in violation of the act or this chapter, or has not had a certification revoked by the Department under § 245.109.

(c) Certified installers and certified inspectors shall successfully complete additional periodic training and testing administered or approved by the Department to maintain their certification. Successful completion means attendance at all sessions of training and attainment of the minimum passing grade established by the Department in the approval of the training course under § 245.141 (relating to training approval), for all sections of all qualifying tests given as part of the training program.

(d) After March 23, 1992, a certified installer or certified inspector may not perform tank handling or inspection activities as an employee of a company unless the company holds a valid certification issued by the Department under this chapter.

(e) If the EQB deletes or consolidates certification categories or amends qualifications for certification prior to the expiration date of an installer or inspector's category certification, the category certification may still be used until the expiration date of that category certification.

**§ 245.103. (Reserved).**

**§ 245.104. Application for installer or inspector certification.**

(a) The applicant shall be a natural person.

(b) An application for installer or inspector certification shall be submitted to the Department on current forms provided by the Department and must contain the following information:

(1) Evidence that the applicant has the certification prerequisites contained in § 245.111 or § 245.113 (relating to certified installer experience and qualifications; and certified inspector experience and qualifications).

(2) The applicant's name, address and telephone number.

(3) Other information necessary for a determination of whether the issuance of a certification conforms to the act and this chapter.

(c) An application for certification shall be received by the Department no later than 60 days prior to the announced date of the certification examination.

(d) An application must be complete upon submission.

(e) An applicant meeting the requirements of § 245.102(a)(4) or (b)(4) (relating to requirement for certification) will be granted admission to the certification examinations for which the applicant has requested certification and is qualified.

**§ 245.105. Certification examinations.**

(a) The Department will establish separate administrative and technical content for the examinations and the standards and criteria against which they will be evaluated to be used in determining the fitness of candidates for certification as certified installers or certified inspectors under the categories established by this chapter.

(b) The Department will schedule a date and location for the examinations for certified installer and certified inspector at least once in each calendar year.

(c) Only applicants who have been authorized by the Department, in accordance with this chapter, to take an examination will be admitted to an examination or issued a certification as a result of passing an examination. Authorization to take an examination will be based on compliance with this chapter. Applicants who are authorized to take an examination are eligible to take the examination for up to 1 year from the date of authorization.

(d) To receive a passing grade on the examinations, the applicant for certification shall achieve a minimum score of 80% on each technical section and a minimum score of 80% on the administrative section of the examination.

(e) An applicant who fails an examination is eligible to retake the examination for up to 1 year from the failed examination test date, but no later than 18 months from date of authorization.

**§ 245.106. Conflict of interest.**

(a) Except as provided in subsection (b), a certified inspector may not be one or more of the following:

(1) An employee of the tank owner, the tank owner or operator.

(2) A certified installer on the same tank handling activity for which he is a certified inspector.

(3) An employee of a company that employs a certified installer on the same tank handling activity for which he is a certified inspector, when the tank handling activity is performed on a field constructed storage tank. This prohibition extends to a company that owns, or is owned by, the employer, in whole or in part.

(b) A certified inspector who is a certified installer may conduct a tank handling activity to correct a deficiency identified by the same certified individual or company during an inspection of the operation of a storage tank facility. Notwithstanding this exception, subsection (a)(2) still prohibits a certified inspector from subsequently inspecting a tank handling activity which the certified inspector conducted to correct a deficiency noted in an inspection of the operation of a storage tank facility.

**§ 245.108. Suspension of certification.**

(a) The Department may suspend the certification of a certified installer or certified inspector for good cause which includes, but is not limited to:

(1) A violation of the act or this chapter.

(2) Incompetency on the part of the certified installer or certified inspector as evidenced by errors in conducting duties and activities for which the certification in question was issued.

(3) Failure to successfully complete a training program required by the Department.

(4) In the case of a certified inspector's failure to:

(i) Inform the owner or operator and the Department of conditions or procedures that are not in accordance with the manufacturer's technical and procedural specifications for installation, construction, modification or operation of the storage tank system or storage tank facility and not in compliance with the act or this chapter.

(ii) Conduct, review or observe a test or inspection activity required by the act or this chapter.



(iii) Submit reports of inspection activities to the Department within 60 days of conducting the inspection activities.

(5) In the case of a certified installer's failure to:

(i) Be present during tank handling activities at the storage tank system or storage tank facility as required by the act or this chapter.

(ii) Conduct tank handling activities in accordance with the requirements of the act or this chapter.

(iii) Submit tank handling reports and activities to the Department within 30 days of conducting the tank handling activities. For tank handling activities involving multiple certified individuals and certification categories, the tank handling report shall be submitted within 30 days of the completion of all project tank handling and inspection activities.

(6) Working as a certified installer or certified inspector in a certification category for which the person has failed to obtain certification.

(7) Failure to meet one or more of the standards for performance in § 245.132 (relating to standards of performance).

(8) Submission of false information to the Department.

(9) A violation of The Clean Streams Law, the Air Pollution Control Act or the Solid Waste Management Act or regulations promulgated under those statutes by the certified individual which results in the following:

(i) Causes pollution, causes a threat of pollution or causes harm to the public health, safety or welfare.

(ii) Occurs as a result of the certified individual conducting activities related to the installation, modification, removal or inspection of storage tank systems.

(10) Failure to perform underground tightness testing activities and documentation in accordance with § 245.31 (relating to underground storage tank tightness testing requirements).

(b) The suspension of a certification in a single category shall prevent the person from engaging in activities in all categories of certification.

(c) The Department may require that the person successfully complete a special training program sponsored or approved by the Department designed to strengthen the specific weakness in the certified installer's or certified inspector's duties, as required under the act or this part identified in the suspension order. Successful completion means attendance at all sessions of training and attainment of the minimum passing grade established by the Department in the approval of the training course under § 245.141 (relating to training approval), for all sections of all qualifying tests given as part of the training program.

(d) A certified installer or certified inspector shall surrender certification documents to the Department upon notification of suspension.

(e) The Department may reinstate the certification if:

(1) The cause for the suspension has been removed.

(2) The person is competent to execute duties and responsibilities for which certification was issued.

#### § 245.109. Revocation of certification.

(a) The Department may revoke the certification of a certified installer or certified inspector if the certified installer or certified inspector has done one or more of the following:

(1) Demonstrated a willful disregard of, or willful or repeated violations of the act or this chapter.

(2) Willfully submitted false information to the Department.

(3) Committed an act requiring suspension under § 245.108 (relating to suspension of certification) after having certification suspended previously.

(b) The revocation of a certification in a single category shall prevent the person from engaging in activities in all categories of certification.

(c) A certified installer or certified inspector shall surrender certification documents to the Department upon notification of revocation.

#### § 245.110. Certification of installers.

(a) An installer certification authorizes the person to whom it is issued to conduct tank handling activities or tightness testing activities pertaining to storage tank systems or storage tank facilities in one or more of the categories in subsection (b).

(b) Installer certifications may be issued for the following categories:

(1) *Underground storage tank system-installation and modification {UMX}*. Installation and modification of underground storage tanks and storage tank systems including, but not limited to, the tank and all associated ancillary equipment, appurtenances, corrosion protection systems, structural components and foundations. This category also includes conducting preinstallation air pressure tests for underground storage tank systems.

(2) *Underground storage tank-removal {UMR}*. Removal from service of underground storage tank systems or storage tank facilities.

(3) *Underground storage tank system-tightness tester {UTT}*. Tightness testing activities involved in conducting and interpreting results of volumetric and nonvolumetric tests on underground storage tank systems or storage tank facilities.

(4) *Aboveground manufactured metallic storage tank-installation and modification {AMMX}*. Installation and modification of aboveground manufactured metallic storage tank systems, including, but not limited to, the tank and all associated ancillary equipment, appurtenances and corrosion protection systems. This category also covers foundations and structural components when they are designed by an engineer qualified in civil construction or when installing small aboveground UL-labeled tanks with manufacturer's installed self-containment or diking systems.

(5) *Aboveground nonmetallic storage tank-installation and modification {AMNX}*. Installation and modification of aboveground nonmetallic storage tanks or storage tank systems, including, but not limited to, the tank and all associated ancillary equipment and appurtenances. This category also covers foundations and structural components when they are designed by an engineer qualified in civil construction or as specified by the tank manufacturer.

(6) *Aboveground manufactured storage tank-removal {AMR}*. Removal from service of aboveground manufactured storage tank systems or storage tank facilities.

(7) *Aboveground field constructed metallic storage tank-installation, modification and removal {AFMX}*. Installation, modification and removal of aboveground field constructed metallic storage tanks and corrosion protection

systems. This category also covers the modification of tank components of an aboveground manufactured storage tank system.

(8) *Aboveground field constructed storage tank-removal {AFR}*. Removal from service of aboveground field constructed and manufactured aboveground storage tank systems or storage tank facilities.

(9) *Aboveground storage tank mechanical-installation, modification and removal {AMEX}*. Installation, modification and removal of tank related mechanical appurtenances, including, but not limited to, valves, fill piping, suction piping, foam system piping, pumps, corrosion protection systems, release detection systems, and spill and overfill prevention systems that are components of an aboveground storage tank system or storage tank facility.

(10) *Aboveground storage tank-civil {ACVL}*. Installation and modification of tank related structural components, including, but not limited to, foundations, dike walls, field grading, above and below grade vaults, pump supports, pipe supports, corrosion protection systems and drainage systems associated with an aboveground storage tank system or storage tank facility.

(11) *Storage tank-liner {TL}*. Activities involved in installation or modification of internal linings for underground and aboveground storage tank systems or storage tank facilities and the evaluation of underground storage tank linings as required in § 245.422(b)(1)(ii) (relating to upgrading of existing underground systems).

**§ 245.111. Certified installer experience and qualifications.**

(a) An applicant shall meet the following minimum experience, education, training or certification requirements and have completed the required number of activities in the appropriate category for an initial installer category certification:

<i>Category</i>	<i>Experience, Education, Training or Certification</i>	<i>Total Number of Activities Completed</i>
UMX	2 years, or college degree and 1 year Technical training	9 installations
UMR	2 years, or college degree and 1 year Technical training	6 removals
UTT	Department-approved training with testing equipment manufacturer's certification	None
AMMX	2 years, or college degree and 1 year Technical training or UMX certification	9 installations
	Technical training or AFMX certification	None
AMNX	2 years, or college degree and 1 year Technical training or AMMX certification	9 which may be installations or major modifications
		6 AST installations

<i>Category</i>	<i>Experience, Education, Training or Certification</i>	<i>Total Number of Activities Completed</i>
AMR	2 years, or college degree and 1 year Technical training or UMR certification or AFR certification	6 removals
AFMX	3 years, or college degree and 2 years Technical training	12 which may be installations or major modifications
AFR	2 years, or college degree and 1 year Technical training	6 removals
AMEX	3 years, or college degree and 2 years Technical training	12 installations or modifications (at least 6 installations)
ACVL	3 years, or college degree and 2 years Technical training	12 installations or modifications (at least 6 installations)
TL	2 years/ Manufacturer's certification	9 tank linings

(b) The total number of activities completed required by subsection (a) shall have been completed within the 3-year period immediately prior to submitting the application for certification. The activities shall have been completed in compliance with Federal and State requirements and the applicant shall have had substantial personal involvement at the storage tank site in the activities. Noncertified individuals may work at the site but the certified installer is directly responsible to assure that the activities are conducted properly. This work qualifies toward the total number of activities completed requirements.

(c) A college degree being substituted for experience shall be in civil engineering, mechanical engineering, environmental engineering, petroleum engineering, chemical engineering, structural engineering or geotechnical engineering.

(d) The total experience requirement for underground storage tank-tightness tester {UTT} shall be demonstrated through the submission of proof of successful completion of a training program sponsored or approved by the Department and possession of a current equipment manufacturer's certification for a specific method of testing. The Department's UTT certification is limited to the specific method of testing included in the equipment manufacturer's certification. Successful completion means attendance at all sessions of training and attainment of the minimum passing grade established by the Department in the approval of the training course under § 245.141 (relating to training approval), for all sections of all qualifying tests given as part of the training course.

(e) Except for UTT, the total experience requirement is experience gained working at a storage tank site while working towards the total number of activities completed requirement.

(f) In the category for aboveground field constructed metallic storage tank {AFMX}, for installation or reconstruction activities involving tanks greater than 90 feet in diameter, each activity shall count as two installations for purposes of meeting the total number of activities requirement.

(g) The technical training required by subsection (a) shall be completed during the experience interval and shall be demonstrated through the submission of proof of successful completion of a category-specific training course approved by the Department in accordance with § 245.141. Successful completion means attendance at all sessions of the training and attainment of the minimum passing grade for the approved course. The requirement for category-specific technical training is effective November 10, 2008.

(h) The applicant shall certify completion of safety training which is appropriate for the certification category. Training must be in accordance with regulatory requirements and industry standards and procedures such as Occupational Safety and Health Administration requirements in 29 CFR 1910 (relating to occupational and health standards for industry).

#### § 245.112. Certification of inspectors.

(a) An inspector certification authorizes the person to whom it is issued to conduct inspection activities for storage tank systems and storage tank facilities in one or more of the categories in subsection (b).

(b) Inspector certifications may be issued for the following categories:

(1) IUM underground storage tank systems and storage tank facilities.

(2) IAM aboveground manufactured storage tank systems and storage tank facilities.

(3) IAF aboveground field constructed and aboveground manufactured storage tank systems and storage tank facilities.

#### § 245.113. Certified inspector experience and qualifications.

(a) An applicant shall meet the following minimum experience, education, training or certification requirements, and have completed the required number of activities in the appropriate category for an initial inspector category certification:

<i>Category</i>	<i>Experience, Education, Training or Certification</i>	<i>Total Number of Activities Completed</i>
IUM	4 years, or college degree and 2 years Department-approved tank tightness testing familiarization course or UTT certification UMX certification Corrosion protection training	None
IAM	4 years, or college degree and 2 years API 653 certification or STI inspector certification or Department-approved aboveground tank inspector certification	None

<i>Category</i>	<i>Experience, Education, Training or Certification</i>	<i>Total Number of Activities Completed</i>
IAF	4 years, or college degree and 2 years API 653 certification or Department-approved aboveground tank inspector certification	12 integrity or construction inspections

(b) The total number of activities completed required by subsection (a) shall have been completed within the 3-year period immediately prior to submitting the application for certification. The activities shall have been completed in compliance with Federal and State requirements and the applicant shall have had substantial personal involvement at the storage tank site in the activities.

(c) A college degree being substituted for experience shall be in civil engineering, mechanical engineering, environmental engineering, petroleum engineering, chemical engineering, structural engineering, geotechnical engineering, hydrology, geology or environmental studies.

(d) The total number of activities completed required by subsection (a) may be met through the conducting of inspection activities. Noncertified individuals may work at the site but the certified inspector is directly responsible to assure that the activities are conducted properly. This work qualifies toward the total number of activities completed requirements.

(e) The total experience requirement is experience gained working at a storage tank site while working towards the total number of activities completed requirement.

(f) When conducting an aboveground storage tank structural integrity inspection on an aboveground field constructed metallic storage tank, the Department certified inspector shall also possess API Standard 653 (Tank Inspection, Repair, Alteration and Reconstruction Certification).

(g) The applicant shall certify completion of safety training which is appropriate for the certification category. Training must be in accordance with regulatory requirements and industry standards and procedures such as Occupational Safety and Health Administration requirements in 29 CFR 1910 (relating to occupational and health standards for industry).

(h) Certified inspectors of underground storage tanks (IUM) shall complete Department-provided inspector training prior to conducting UST facility operation inspections required in § 245.411 (relating to inspection frequency).

#### § 245.114. Renewal and amendment of certification.

(a) Certification categories renewed after January 9, 2008, will have a uniform expiration date of 3 years from the issuance date of the first category after January 9, 2008.

(b) After the conversion to a uniform expiration date as provided in subsection (a), the issued certification will be valid for 3 years from the previous expiration date, unless suspended or revoked before that date.

(c) An applicant shall meet the following minimum training requirements or number of activities in the appropriate category for renewal of installer certification:

<i>Category</i>	<i>training</i>	<i>Total Number of Activities Completed (Renewal by activities to be phased out November 10, 2009)</i>
UMR	Examination or Technical training Administrative training	6 removals
UMX	Examination or Technical training Administrative training	9 installations or major modifications
UTT	Testing equipment manufacturer's certification Administrative training	None
AMMX	Examination or Technical training Administrative training	9 installations or major modifications
AMNX	Examination or Technical training Administrative training	9 installations or major modifications
AFMX	Examination or Technical training Administrative training	12 installations or major modifications
AFR	Examination or Technical training Administrative training	6 removals
AMR	Examination or Technical training Administrative training	6 removals
AMEX	Examination or Technical training Administrative training	12 installations or major modifications
ACVL	Examination or Technical training Administrative training	12 installations or major modifications
TL	Manufacturer's certification Administrative training	9 tank linings

(d) An applicant shall meet the following requirements in the appropriate category for renewal of inspector certification:

<i>Category</i>	<i>Qualifications and Training</i>
IUM	Department inspector training

<i>Category</i>	<i>Qualifications and Training</i>
IAM	API 653 certification or STI Inspector certification or Department approved inspector certification and Department inspector training
IAF	API 653 certification or Department-approved inspector certification and Department inspector training

(e) Renewal of categories based on number of activities completed without technical training or examination as provided in subsection (c) will be a method of renewal until November 10, 2009.

(f) Technical and administrative training shall be obtained within 2 years prior to application submission.

(1) Administrative training will be provided by the Department. Administrative training in subsection (c) is required after November 10, 2009.

(2) Technical training is category-specific and must be approved by the Department in accordance with § 245.141 (relating to training approval).

(g) An applicant for renewal shall:

(1) Submit a completed application for renewal to the Department 60 to 120 days prior to the expiration date or examination test date. Applicants who fail to submit a renewal application within 60 days following the expiration date shall meet the experience, qualifications and examination requirements for initial certification as required in § 245.111 or § 245.113 (relating to certified installer experience and qualifications; certified inspector experience and qualifications) and the requirements in § 245.105 (relating to certification examinations).

(2) The applicant shall certify completion of safety training which is appropriate for the certification category. Training must be in accordance with regulatory requirements and industry standards and procedures such as Occupational Safety and Health Administration requirements in 29 CFR 1910 (relating to occupational and health standards for industry).

(3) Successfully complete training programs which may be required by the Department. Successful completion means attendance at all sessions of training and attainment of the minimum passing grade established by the Department in the approval of the training course under § 245.141 for all sections of all qualifying tests given as part of the training course.

(h) A certified installer or certified inspector shall notify the Department and seek amendment of the certification from the Department whenever:

(1) There is a change in the information provided in the application for the certification. This request shall be made within 14 days from the date of a change in information.

(2) The certified installer or certified inspector wishes to conduct tank handling or inspection activities in

installer or inspector certification categories other than those approved by the Department as set forth on the certification.

(3) The certified installer or certified inspector wishes to eliminate installer or inspector certification categories from the certification.

(4) The EQB amends certification categories or qualification requirements and establishes a phase-in period for the new requirements.

(i) Certified installers or certified inspectors required to amend their certifications in accordance with paragraph (1) or (3) shall apply for amendment on a form provided by the Department.

(j) Certified installers or certified inspectors required to amend their certifications in accordance with subsection (h)(2) shall comply with the applicable requirements of this chapter related to application, experience, qualifications and examination.

### **COMPANY CERTIFICATION**

#### **§ 245.121. Certification of companies.**

A company may not employ a certified installer or certified inspector to perform tank handling, tightness testing or inspection activities unless the company holds a valid certification issued by the Department under this chapter and the company verifies that the certified installer or certified inspector holds a valid certification issued under this chapter for the appropriate category.

#### **§ 245.122. Applications for company certification.**

(a) Applications for certification shall be submitted to the Department on forms provided by the Department and include information that will enable the Department to determine if issuance of the certification conforms to the act and this chapter. The following information shall be included:

(1) The full name, address and telephone number of the company.

(2) The names held by the company within the previous 7 years.

(3) Information on previous certification revocations under §§ 245.109 and 245.124 (relating to revocation of certification; and revocation of company certification) of company officers, the company and the company under a previous or fictitious name.

(4) Identification of industry or government licenses or certifications held by the company and the officers of the company relating to underground or aboveground storage tanks.

(5) The names and certification numbers of all certified installers and certified inspectors employed by the company.

(6) A statement signed by a person authorized to bind the company certifying that the company:

(i) Has obtained a copy of the act and this chapter.

(ii) Will comply with the act and this chapter and will direct the employees, principals and agents of the company to perform tank handling and inspection activities in a manner that is consistent with the act and this chapter.

(7) Other information necessary for a determination whether the issuance of a certification conforms to the requirements of the act and this chapter.

(b) Applications shall be complete upon submission.

(c) The Department may not issue company certification if one or more of the following apply:

(1) The company is found to be in violation of the act or this chapter.

(2) The company certification was previously revoked under § 245.124.

(3) An officer of the company has had their individual certification revoked under § 245.109.

(4) An officer of the company was an officer in a company whose company certification was revoked under § 245.124 at the time the conduct resulting in revocation occurred.

#### **§ 245.123. Suspension of company certification.**

(a) The Department may suspend the certification of a certified company for good cause, which includes, but is not limited to:

(1) A violation of the act or this chapter by the company or a certified installer or certified inspector employed by the company.

(2) Incompetency on the part of the company as evidenced by errors in executing duties and responsibilities for which the certification was issued.

(3) Failure to meet one or more of the standards of performance in § 245.132 (relating to standards of performance).

(4) A violation of The Clean Streams Law, the Air Pollution Control Act or the Solid Waste Management Act or regulations promulgated thereunder by the company or a certified installer or a certified inspector employed by the company which results in the following:

(i) Causes pollution, causes a threat of pollution or causes harm to the public health, safety or welfare.

(ii) Occurs while conducting activities related to the installation, modification, removal from service or inspection of storage tank systems.

(5) Withholding from a certified installer or certified inspector, individual correspondence or certification documents issued by the Department.

(6) Failure to provide oversight of employee certification applications, tank handling and inspection reports.

(7) Submission of false information to the Department or tank owner.

(8) Failure to have a properly certified installer in direct onsite supervision and control of a tank handling activity.

(b) A certified company shall surrender certification documents to the Department upon notification of suspension.

(c) The Department may reinstate the certification if the following apply:

(1) The certified company and certified installers and certified inspectors employed by the certified company are competent to execute the duties and responsibilities for which certification was issued.

(2) The cause for the suspension has been removed.

(d) Suspension of a certification by the Department shall prevent a company from conducting tank handling, tightness testing or inspection activities during the suspension.

**§ 245.124. Revocation of company certification.**

(a) The Department may revoke the certification of a certified company for one or more of the following conditions:

- (1) A willful disregard for, or willful or repeated violations of the act or this chapter.
- (2) The certification of an installer or inspector employed by the company is revoked.
- (3) There has been a prior suspension of the certification.
- (4) Willfully submitting false information to the Department.
- (b) Revocation of a certification by the Department shall prevent a company from conducting tank handling, tightness testing or inspection activities.

(c) A certified company shall surrender certification documents to the Department upon notification of revocation.

**§ 245.125. Renewal and amendment of company certification.**

(a) Company certification shall be for 3 years from the date of issuance unless suspended or revoked before that date. An applicant for renewal shall submit a completed application for renewal to the Department 60 to 120 days prior to the expiration date.

(b) A certified company shall notify the Department and file an amendment to its company certification on a form approved by the Department whenever there is a change in the information provided in the application for the certification. This form shall be submitted within 14 days of the date of a change in information.

**STANDARDS FOR PERFORMANCE**

**§ 245.132. Standards of performance.**

(a) Certified companies, certified installers and certified inspectors shall:

(1) Maintain current technical and administrative specifications and manuals, Nationally-recognized codes and standards, and State and Federal regulations which pertain to the categories for which certification was issued. Nationally-recognized organizations are identified in §§ 245.405, 245.504 and 245.604 (relating to codes and standards; and referenced organizations).

(2) Complete and submit to the Department, within 60 days of the inspection activity or 30 days of a tank handling activity, a Department-approved form certifying that the tank handling activity or inspection activity conducted by the certified installer or certified inspector meets the requirements of the act and this chapter and accurately describes the conditions of the storage tank system and facility. For tank handling activities involving multiple certified individuals and certification categories, the tank handling report shall be submitted within 30 days of the completion of all project tank handling and inspection activities.

(3) Maintain complete records of tank handling and inspection activities, nondestructive examination and testing results and tightness testing records for a minimum of 10 years.

(4) Report to the Department a release of a regulated substance or confirmed or suspected contamination of soil, surface or groundwater from regulated substances observed while performing services as a certified installer or certified inspector. This notification shall be submitted to

the Department in writing within 48 hours of observing suspected or confirmed contamination on a form provided by the Department. If the notification is being submitted because of a failed valid tightness test, a copy of the test results shall also be provided to the Department with the notification report. When there is a reportable release, the notification may be submitted jointly by the owner, operator, certified installer and certified inspector. In this instance, the written notification report shall be submitted to the Department, at the appropriate regional office, in accordance with § 245.305 (relating to reporting releases).

(5) Perform certified installer or certified inspector activities so that there is no release of regulated substances or contamination of soil, surface or groundwater caused by regulated substances from a storage tank system or storage tank facility.

(6) Not affix the certified installer's or certified inspector's signature or certification number to documentation concerning the installation or inspection of a component of a storage tank system project or to documentation concerning tank handling or inspection activity, unless:

(i) The storage tank system project was accomplished by the certified installer or under the installer's direct, onsite supervision and control.

(ii) Inspection activities were conducted on the storage tank system project by the certified inspector, or under the inspector's direct, onsite supervision and control and as required by the act and this chapter and the certified inspector was present at the site during the conducting of inspection activities on the storage tank system project and as required by the act and this chapter.

(iii) Installation or modification inspection activities were conducted on a large or field constructed aboveground storage tank and the certified inspector was involved prior to the initiation of the project and was present at critical times, so that the inspector can reliably determine that the following requirements were met:

(A) Industry standards and project specifications were followed throughout the tank handling activity.

(B) Appropriate testing and nondestructive examinations were properly conducted.

(C) The tank is suitable for operational service.

(7) Not certify to an owner or operator or the Department that a storage tank system project or component thereof is complete unless it complies with the act or this chapter. Project certification applies to both certified activities and nontank handling activities that may have been performed as part of the project.

(8) Adhere to equipment manufacturer's instructions, accepted industry standards and applicable industry codes of practice when performing tank handling, tightness testing or inspection activities or other nontank handling activities on the project.

(9) Provide requested records and documentation to the Department under section 107(c) of the act (35 P. S. § 6201.107(c)).

(b) A certified installer or certified inspector shall display a certification identification card or certificate upon request.

(c) A certified company is responsible for employees having appropriate safety and technical training. Certified companies, certified installers and certified inspectors shall adhere to health and safety procedures, such as those required by the Federal Occupational Safety and

Health Administration (OSHA) and the National Institute for Occupational Safety and Health (NIOSH).

### **TRAINING APPROVAL**

#### **§ 245.141. Training approval.**

(a) Providers of training for which approval is required under this chapter shall, at least 120 days prior to the scheduled date of the training program, request approval from the Department for the training program.

(b) An application for approval must include the following information:

(1) The name and address of the person offering the training.

(2) The title of the course.

(3) The name, title, affiliation and professional background of each course instructor and a detailed outline of the course which includes a description of the subject matter to be presented, the order of presentation and the amount of time scheduled for the presentation.

(4) A narrative describing the preparation and administration of a test to be given at the conclusion of the course. This test must test the participant's knowledge of the technical, administrative and legal requirements related to the subject matter of the course. The narrative must also describe a procedure for conducting and grading of the test that assures careful monitoring and expeditious transmission of test results to the applicant and the Department.

(c) Training approval shall be for 3 years from the date of issuance. An applicant for renewal shall submit a completed application for renewal to the Department 60 to 120 days prior to the expiration date.

(d) The Department may approve industry recognized training without the submission of an application as provided in subsection (a).

#### **§ 245.142. Training courses.**

(a) Technical training for initial category-specific certification in § 245.111 (relating to certified installer experience and qualifications) must be based on Nationally-recognized codes and standards in conjunction with manufacturers specifications.

(b) Technical training for renewal of category-specific certification in § 245.114(c) (relating to renewal and amendment of certification) must at a minimum review the technical and regulatory material appropriate for the certification category.

### **Subchapter C. PERMITTING OF UNDERGROUND AND ABOVEGROUND STORAGE TANK SYSTEMS AND FACILITIES**

#### **GENERAL**

#### **§ 245.203. General requirements for permits.**

(a) Except as provided in subsections (b)—(d), a person may not operate an aboveground or underground storage tank system or storage tank facility, or install a storage tank system or facility covered by § 245.231 (relating to scope), unless the person has first applied for and obtained a permit for the activity from the Department under this subchapter.

(b) A person is not required to submit a separate application for a permit if the storage tank system is subject to a permit-by-rule. The storage tank system must be registered with the Department in accordance with Subchapter A (relating to general provisions) and be

maintained and operated in compliance with the standards and requirements of the Department under the act and this chapter. Failure to comply with standards could result in administrative or other Departmental actions against the storage tank owner/operator.

(c) A person may continue to operate an existing storage tank system, registered with the Department on or before October 11, 1997, when the tank system is operated for its intended use, until the Department notifies the person to submit a permit application under this subchapter or the Department notifies the person the tank system is deemed permitted, if the person maintains and operates the storage tank system in compliance with the act and this chapter.

(d) Operation of existing storage tank systems will be allowed to continue until the Department takes final action on the permit application requested in subsection (c) or the Department notifies the person that the tank system is deemed permitted or that the permit is withheld or denied.

(e) Operating permits will be renewed automatically on an annual basis concurrent with registration. There will be no additional fee or paperwork required beyond the registration requirements.

(f) The Department will automatically withhold or withdraw the operating permit for a storage tank that is reported under § 245.41 (relating to tank registration requirements) in temporary closure or temporary removal from service (out-of-service) status. The Department may renew the permit when an amended registration form is received showing the tank returning from temporary closure or temporary removal from service status to an operating status.

(g) A storage tank system may not be operated if the Department suspends, revokes or denies the tank operating permit. A person may not deliver or place a regulated substance in a storage tank if the Department suspends, revokes or denies the tank operating permit.

### **GENERAL OPERATING PERMITS**

#### **§ 245.222. Application requirements.**

Applications for a general operating permit shall be submitted on a Department form. The application must certify the following:

(1) General requirements for all storage tank systems are as follows:

(i) The storage tank system is properly registered.

(ii) Tank handling and inspection activities are performed by Department-certified individuals, as specified in § 245.21 (relating to tank handling and inspection requirements) and Subchapter B (relating to certification program for installers and inspectors of storage tanks and storage tank facilities).

(iii) The storage tank system is in compliance with applicable administrative, technical and operational requirements as specified in Subchapter E, Subchapter F or Subchapter G (relating to technical standards for underground storage tanks; technical standards for aboveground storage tanks and facilities; and simplified program for small aboveground storage tanks).

(2) In addition to the requirements of paragraph (1), an owner of an underground storage tank system shall meet the applicable financial responsibility requirements of Subchapter H (relating to financial responsibility requirements for owners and operators of underground storage tanks and storage tank facilities).

(3) In addition to the requirements of paragraph (1), an owner of an aboveground storage tank system shall meet the following requirements:

(i) A current Spill Prevention Response Plan, that is in compliance with Chapter 9 of the act (35 P. S. §§ 6021.901—6021.904), is filed with the Department.

(ii) For new tanks, proof that an appropriate tightness test of the aboveground tank system has been completed.

#### **SITE-SPECIFIC INSTALLATION PERMITS**

##### **§ 245.231. Scope.**

(a) Site-specific installation permits are required prior to the construction, reconstruction or installation of one or more of the following:

(1) New aboveground storage tank systems with a capacity greater than 21,000 gallons at an existing large aboveground storage tank facility.

(2) New large aboveground storage tank facilities.

(3) New highly hazardous substance tank systems.

(4) New underground field constructed storage tank systems.

(b) Site-specific installation permit applications meeting the requirements in §§ 245.232(a)(1) and (2) and 245.236 (relating to general requirements; and public notice) are required to be approved prior to construction, reconstruction or installation. Additional application requirements include the following:

(1) Large aboveground storage tank system at a new facility or existing small aboveground tank facility requires compliance with § 245.232(a)(3) and (4) and (b).

(2) Large aboveground storage tank system at an existing large aboveground storage tank facility on new location requires compliance with § 245.232(a)(3) and (b).

(3) Large aboveground storage tank system at an existing large aboveground storage tank facility on the footprint of previous aboveground storage tank system requires compliance with § 245.232(b) and § 245.234(b) (relating to siting requirements).

(4) Small aboveground storage tank systems at a new large aboveground storage tank facility require compliance with § 245.232(a)(3) and (b).

(c) If the facility owner or operator can demonstrate that, on or before November 10, 2007, construction has commenced on an aboveground storage tank with a capacity greater than 30,000 gallons used or to be used for storing heating oil for consumptive use on the premises or on a tank regulated due to the addition of new regulated substances defined in § 245.1 (relating to definitions) (See “regulated substance” (i)(C)(I) and (II)), the requirements of this section will not apply.

##### **§ 245.232. General requirements.**

(a) Applicants for site-specific permits shall provide the following:

(1) Certification that the tank handling and inspection activities will be performed by Department-certified individuals, as specified in Subchapter B (relating to certification program for installers and inspectors of storage tanks and storage tank facilities).

(2) Certification that the storage tank system will be in compliance with applicable administrative, technical and operational requirements as specified in Subchapters E—G (relating to technical standards for underground

storage tanks; technical standards for aboveground storage tanks and facilities; and simplified program for small aboveground storage tanks).

(3) The information required by §§ 245.233 and 245.234 (relating to mapping requirements; and siting requirements).

(4) The environmental assessment required by § 245.235 (relating to environmental assessment).

(b) In addition to the items required by subsection (a), owners of aboveground storage tank systems or facilities required to apply for a site-specific permit shall include:

(1) A current Spill Prevention Response Plan that is in compliance with Chapter 9 of the act (35 P. S. §§ 6021.901—6021.904).

(2) Proof of notification to the municipality and county prior to submitting the application for a site-specific installation permit under section 1101(a) of the act (35 P. S. §§ 621.1101(a)) and § 245.236 (relating to public notice). Acceptable proof of notification includes, but is not limited to, copies of letters sent to the affected municipality and county and legal notices published in a newspaper of general circulation in the area where the project is proposed.

(c) Applications for site-specific installation permits shall be accompanied by the proper fee required by section 304(c) of the act (35 P. S. § 6021.304(c)) for aboveground storage tanks and section 504(c) of the act (35 P. S. § 6021.504(c)) for underground storage tanks.

##### **§ 245.234. Siting requirements.**

(a) The Department will not issue a site-specific storage tank system or facility installation permit if:

(1) The installation of tank systems and facilities is proposed on 100-year floodplains or a larger area that the flood of record has inundated unless the industrial use on the proposed site was in existence as of August 5, 1989.

(2) The installation of tank systems and facilities is proposed in wetlands in a manner inconsistent with Chapter 105 (relating to dam safety and waterway management).

(3) The Department determines that construction design criteria or engineering specifications submitted by a professional engineer are not in accordance with generally accepted sound engineering practices or existing conditions at the site require mitigation to properly support the tank systems and the applicant’s proposed mitigation actions are not deemed adequate.

(b) The applicant shall provide the following additional information if appropriate:

(1) Over areas underlain by carbonate bedrock, the applicant shall provide information and analysis to the Department which assesses the prevalence of solution channels and the potential for sinkholes at the facility site.

(2) If any part of a proposed facility has been previously mined by deep mining methods, the applicant shall provide the results of an engineering study of the proposed site by a Pennsylvania-registered professional engineer or Pennsylvania-registered professional geologist. The study must be detailed enough to assess the potential for and degree of surface subsidence. The study must also include methods which have been used or will be used to stabilize the surface. The applicant shall provide assurance that minerals providing surface support will not be mined as long as the facility stores regulated substances.



(3) A professional engineer's construction design criteria and engineering specifications necessary to mitigate surface or subsurface conditions which may result in excessive tank system settlement or unstable support of the applicant's proposed tank systems.

**§ 245.235. Environmental assessment.**

(a) An application for a site-specific permit must include an environmental assessment on a form prescribed by the Department.

(b) An environmental assessment in a permit application must include detailed analysis of the potential impact of the proposed facility on the environment, public health and public safety, including air quality, water quality, threatened or endangered species and water uses. The applicant shall consider environmental features such as recreational river corridors, State and Federal parks, historic and archaeological sites, National wildlife refuges, State and Federal natural areas, prime farmland, wetlands, special protection watersheds designated under Chapter 93 (relating to water quality standards), public water supplies and other features deemed appropriate by the Department or the applicant.

(c) The Department will evaluate the assessment proposed under subsection (a) to determine whether the proposed operation has the potential to cause environmental harm. The Department will consult with appropriate governmental agencies and potentially affected persons concerning potential environmental harm. If the Department determines that the proposed operation has that potential, it will notify the applicant in writing.

(d) If the Department or the applicant determines that the proposed operation may cause environmental harm, the applicant shall provide the Department with a written explanation of how it plans to mitigate the potential harm.

**Subchapter D. CORRECTIVE ACTION PROCESS FOR OWNERS AND OPERATORS OF STORAGE TANKS AND STORAGE TANK FACILITIES AND OTHER RESPONSIBLE PARTIES**

**§ 245.311. Remedial action plan.**

(a) Unless a site characterization report is submitted in accordance with § 245.310(b) (relating to site characterization report), the responsible party shall prepare and submit to the Department within 45 days of submission of a site characterization report required by § 245.310(a) selecting the background or Statewide health standard, within 45 days of deemed approval or receipt of a written approval of a site characterization report selecting the site-specific standard or within an alternative time frame as determined by the Department, two copies of a remedial action plan prior to implementation of the remedial action plan. The remedial action plan must be complete and concisely organized and contain the following elements, as necessary, based on the nature, extent, type, volume or complexity of the release:

(1) A brief summary of the site characterization report conclusions.

(2) A copy of the plans relating to worker health and safety, management of wastes generated and quality assurance/quality control procedures, as they relate to the remedial action, if different from the plans submitted in accordance with § 245.310(a)(25).

\* \* \* \* \*

**Subchapter E. TECHNICAL STANDARDS FOR UNDERGROUND STORAGE TANKS**

**GENERAL**

**§ 245.403. Applicability.**

(a) *General.* The requirements of this subchapter apply to owners and operators, as well as installers and inspectors of underground storage tank systems as defined in § 245.1 (relating to definitions), except as otherwise provided in subsection (b).

(b) *Deferrals.* Sections 245.441—245.446 (relating to release detection) do not apply to an underground storage tank system that stores fuel solely for use by emergency power generators.

(c) *Temporary exclusions.* Existing tanks that become regulated due to the addition of new regulated substances in § 245.1 (relating to definitions) (See the definition of "regulated substance" (i)(C)(I) and (II))) are subject to this chapter and shall be registered with the Department by January 9, 2008. In addition, these tanks are temporarily excluded from the requirements of §§ 245.421, 245.422, 245.431, 245.432 and 245.441—245.446, until November 10, 2010.

**§ 245.404. Variances.**

When unique or peculiar circumstances make compliance with this subchapter technically impractical, infeasible or unsafe, the Department may, upon written application from the owner/operator of a storage tank system subject to this subchapter, grant a variance from one or more specific provisions of this subchapter:

(1) A variance may only be granted when the storage tank system meets alternative technical standards that fully protect human health and the environment.

(2) A written application for a variance shall be submitted to the Department and provide the following information:

(i) The facility name and identification number for which the variance is sought.

(ii) The specific sections of this subchapter from which a variance is sought.

(iii) The unique or peculiar conditions which make compliance with the sections identified in subparagraph (ii) technically impractical, infeasible or unsafe.

(iv) Evidence, including plans, specifications and test results, which supports an alternative design, practice, schedule or method as being no less protective of human health and the environment than the requirements of the sections identified in subparagraph (ii).

(3) New technologies may be granted a variance. New technologies shall be reviewed and documented by a professional engineer and documentation provided to the Department with the variance request.

(4) When granting the variance, the Department may impose specific conditions necessary to ensure the adequate protection of human health and the environment.

(5) The Department will provide to the applicant a written notice of approval, approval with additional conditions or denial. Granted variances will be published in the *Pennsylvania Bulletin*.

(6) The Department may not grant any variance which would result in regulatory controls less stringent than other applicable Federal or State regulations, such as 37

Pa. Code Part I, Subpart B (relating to flammable and combustible liquids) and 40 CFR Part 280 (relating to technical standards and corrective action requirements for owners and operators of underground storage tanks (UST)).

**§ 245.405. Codes and standards.**

(a) The following Nationally-recognized associations and their codes and standards shall be used in conjunction with manufacturer's specifications to comply with this subchapter:

- (1) American Concrete Institute (ACI).
- (2) American National Standards Institute (ANSI).
- (3) American Petroleum Institute (API).
- (4) American Society for Testing and Materials (ASTM).
- (5) Association of Composite Tanks (ACT).
- (6) Fiberglass Petroleum Tank and Pipe Institute.
- (7) NACE International—The Corrosion Society (NACE).
- (8) National Fire Protection Association (NFPA).
- (9) National Leak Prevention Association (NLPA).
- (10) Petroleum Equipment Institute (PEI).
- (11) Steel Tank Institute (STI).
- (12) Underwriters Laboratory (UL).

(b) The most current or latest edition of the codes and standards shall be applied when used to meet the technical standards and requirements of this subchapter. Other Nationally-recognized associations and their codes and standards not referenced in this part may also be used to comply with this subchapter, when approved by the Department.

(c) When Nationally-recognized codes and standards or manufacturer's specifications are updated, facilities or storage tank systems installed to previously existing standards prior to the update will not automatically be required to be upgraded to meet the new standards, unless specifically required in the revised standards or by the Department.

(d) Regulatory requirements shall prevail over Nationally-recognized codes and standards whenever there is a conflict.

**FACILITY INSPECTIONS**

**§ 245.411. Inspection frequency.**

(a) *Inspection of tanks.* Underground storage tank owners or operators shall have their underground storage tank facility inspected by a certified inspector at the frequency established in subsections (b)—(d). The inspection must include, but not be limited to, release detection, assessment of the underground storage tank system and ancillary equipment, operation of overfill and spill prevention equipment where practicable, corrosion protection testing, or verification that corrosion protection is functional, and release prevention measures.

(b) *Initial inspections.*

(1) Storage tank facilities with tank systems installed prior to December 1989, shall be inspected prior to October 11, 1999.

(2) Newly installed storage tank systems shall be inspected between 6 to 12 months after installation. If the facility ownership changes, an inspection of the facility

shall be completed between the first 6 to 12 months of operation unless another time frame is agreed to by the Department.

(3) Storage tank facilities not inspected in accordance with paragraph (1) or (2) shall have an initial inspection by October 11, 2002.

(c) *Subsequent routine facility inspections.*

(1) The interval between subsequent routine facility inspections may not exceed 3 years (36 months) commencing after the last inspection, except as provided in the phase-in periods in paragraph (2).

(2) On November 10, 2007, existing facilities with routine inspections scheduled more than 3 years from this date shall be inspected by the following dates, unless notified otherwise by the Department:

(i) Before August 8, 2008, if currently scheduled for inspection between November 10, 2010, and August 7, 2011, inclusive.

(ii) Before August 8, 2009, if currently scheduled for inspection between August 8, 2011, and August 7, 2013, inclusive.

(iii) Before August 8, 2010, if currently scheduled for inspection after August 7, 2013.

(d) *Additional inspections and mandatory training.* Inspections in addition to those in subsections (b) and (c) may be required by the Department when the prior inspection determined release detection, corrosion protection or operational violations occurred, or when the Department determines the inspections are necessary to verify compliance with this subchapter. The Department may require facility owners and operators to successfully complete a release detection or operator training course, such as those offered by PEI or professional industry trainers approved under § 245.141 (relating to training approval), when related violations are documented through an inspection. The owner or operator shall incur the costs of the training.

**UNDERGROUND STORAGE TANK SYSTEMS:  
DESIGN, CONSTRUCTION, INSTALLATION AND  
NOTIFICATION**

**§ 245.421. Performance standards for underground storage tank systems.**

(a) *New underground storage tank systems.*

(1) Underground storage tank systems installed or replaced after November 10, 2007, must have total secondary containment, which consists of double-walled tanks, double-walled piping (for piping that routinely contains and conveys regulated substances (product)) and liquid-tight containment sumps. The sumps must be installed at piping connections that routinely contain and convey product from the tank, such as tank-top sumps and dispenser pan sumps, that allow for release detection monitoring of the system (See PEI RP 100). Also, new or replacement tank systems installed with pressurized product piping systems must be equipped with automatic line leak detectors and automatic pump shutoff devices that meet the requirements of § 245.445(1) (relating to methods of release detection for piping).

(2) At least 30 days prior to the installation of a new or replacement tank or underground storage tank system installed after January 9, 2008, or within another reasonable time agreed upon by the Department, owners and operators shall notify the Department of the proposed installation on a form provided by the Department.

(3) An owner or operator of a tank system changing from unregulated to regulated service shall provide certification by a Department-certified installer or inspector that the tank system meets new tank system requirements, using the registration form (See § 245.41 (relating to tank registration requirements)) prior to placing product into the tank and operating the storage tank system.

(b) To prevent releases due to structural failure, corrosion or spills and overfills for as long as the underground storage tank system is used to store regulated substances, owners and operators of new and existing underground storage tank systems shall ensure that the system meets the following requirements:

(1) *Tanks.* A tank must be properly designed and constructed. A tank or portion of a tank including the outer metallic wall of a double-walled tank that is underground and routinely contains product shall be protected from corrosion in accordance with a code of practice developed by a Nationally-recognized association or independent testing laboratory, using one of the following methods:

(i) The tank is constructed of fiberglass-reinforced plastic.

(ii) The tank is constructed of steel and cathodically protected in the following manner:

(A) The tank is coated with a suitable dielectric material.

(B) Field-installed cathodic protection systems are designed by a corrosion expert.

(C) Impressed current systems are designed by a corrosion expert and allow determination of current operating status as required in § 245.432(a)(3) (relating to operation and maintenance including corrosion protection).

(D) Cathodic protection systems are operated and maintained in accordance with § 245.432.

(iii) The tank is constructed of a steel-fiberglass-reinforced-plastic composite.

(iv) The tank is constructed of metal without additional corrosion protection measures if:

(A) The tank is installed at a site that is determined by a corrosion expert not to be corrosive enough to cause it to have a release due to corrosion during its operating life.

(B) Owners and operators maintain records that demonstrate compliance with clause (A) for the remaining life of the tank.

(2) *Piping.* The piping and ancillary equipment that routinely contain regulated substances shall be protected from corrosion and deterioration. New piping systems that routinely contain and convey regulated substances from the tank must be double-walled with liquid-tight containment sumps and dispenser pan sumps installed in accordance with paragraph (4)(ii). Whenever more than 50% of the existing piping that routinely contains and conveys product from the tank is replaced, the entire piping system that routinely contains and conveys product from the tank shall be replaced meeting the requirements for new piping systems in this subsection. The portions of the product piping system, including joints, flexible connectors and ancillary equipment that are in contact with the ground must be properly designed, constructed and protected from corrosion in accordance with a code of practice developed by a Nationally-recognized association or independent testing laboratory using one of the following methods:

(i) The piping or component is constructed of nonmetallic material such as fiberglass reinforced plastic or other noncorrodible and UL listed material.

(ii) The piping or component is constructed of metal and cathodically protected in the following manner:

(A) The piping is coated with a suitable dielectric material. The wrapping of piping with tape or similar material alone does not meet this requirement.

(B) Field-installed cathodic protection systems are designed by a corrosion expert.

(C) Impressed current systems are designed by a corrosion expert and allow determination of current operating status as required in § 245.432(a)(3).

(D) Cathodic protection systems are operated and maintained in accordance with § 245.432.

(iii) The piping is constructed of metal without additional corrosion protection measures if:

(A) The piping is installed at a site that is determined by a corrosion expert to not be corrosive enough to cause it to have a release due to corrosion during its operating life.

(B) Owners and operators maintain records that demonstrate compliance with clause (A) for the remaining life of the piping.

(3) *Spill and overfill prevention equipment.*

(i) Except as provided in subparagraph (iv), to prevent spilling and overfilling associated with product transfer to the underground storage tank system, owners and operators shall ensure that their systems have the following spill and overfill prevention equipment:

(A) Spill prevention equipment that will prevent release of product to the environment when the transfer hose is detached from the fill pipe—for example, a spill catchment basin or spill containment bucket.

(B) Overfill prevention equipment that will do one or more of the following:

(I) Automatically shut off flow into the tank when the tank is no more than 95% full.

(II) Alert the transfer operator when the tank is no more than 90% full by restricting the flow into the tank or triggering a high-level alarm.

(III) Restrict flow 30 minutes prior to overfilling, alert the operator with a high level alarm 1 minute before overfilling, or automatically shut off flow into the tank so that none of the fittings located on top of the tank are exposed to product due to overfilling.

(ii) Bypassing overfill protection is prohibited for example, bypassing the flow vent valve with coax vapor recovery or a spill bucket drain valve is prohibited.

(iii) Ball float valves may not be used on suction pump systems having an air eliminator, or on any system having coaxial stage-1 vapor recovery systems or receiving pressurized pump deliveries.

(iv) Owners and operators are not required to use the spill and overfill prevention equipment specified in subparagraph (i) if the underground storage tank system is filled by transfers of no more than 25 gallons at one time.

(4) *Installation.*

(i) Tanks and piping shall be properly installed and system integrity tested in accordance with a code of practice developed by a Nationally-recognized association

or independent testing laboratory such as API 1615 and PEI RP100, and in accordance with the manufacturer's instructions.

(ii) Newly installed spill containment buckets, tank-top sumps, dispenser pans and containment sumps must be constructed to be liquid-tight, and shall be tested prior to use of the system to confirm liquid-tight construction using a hydrostatic test, vacuum test or other Nationally-recognized liquid-tight testing procedure or method recommended by the containment equipment manufacturer.

(iii) Overfill prevention equipment shall be properly installed and tested in accordance with a code of practice developed by a Nationally-recognized association, and in accordance with manufacturer's instructions. When ball float valves are used, the valve shall be installed with extractor fitting and ball floats must be readily accessible (not requiring excavation) for removal and operational verification.

(c) *Certification of installation.* Owners and operators shall ensure that a certified installer has installed the tank system by providing a certification of compliance on an appropriate form provided by the Department.

**§ 245.422. Upgrading of existing underground storage tank systems.**

(a) *Alternatives allowed.* By December 22, 1998, existing underground storage tank systems shall comply with one of the following requirements:

(1) Underground storage tank system performance standards under § 245.421(b) (relating to performance standards for underground storage tank systems).

(2) The upgrading requirements in subsections (b)—(d).

(3) Closure requirements under §§ 245.451—245.455 (relating to out-of-service underground storage tank systems and closure), including applicable requirements for corrective action under Subchapter D (relating to corrective action process for owners and operators of storage tanks and storage tank facilities and other responsible parties).

(b) *Tank upgrading requirements.* Steel tanks shall be upgraded to meet one of the following requirements in accordance with a code of practice developed by a Nationally-recognized association or independent testing laboratory:

(1) *Interior lining.* A tank may only be upgraded by internal lining prior to November 10, 2007. The following conditions of existing lined tanks shall be met:

(i) The lining was installed in accordance with § 245.434 (relating to repairs allowed).

(ii) Within 10 years after lining, and every 5 years thereafter, the lined tank is internally evaluated by, or under the direct onsite supervision of a certified tank liner (TL) or by a professional engineer adhering to the evaluation process developed by a National association (See API 1631 and NLP A 631) and found to be structurally sound with the lining still performing in accordance with original design specifications. The evaluation findings shall be documented on a form approved by the Department and shall be maintained at the facility for the duration of the tank's operating life.

(iii) Lined tank systems that do not meet original design specifications or have not been evaluated as required in subparagraph (ii) shall be emptied, removed from service, and permanently closed in accordance with §§ 245.451 and 245.452 (relating to temporary closure; and permanent closure and changes-in-service).

\* \* \* \* \*

(3) *Internal lining combined with cathodic protection.* A tank upgraded prior to November 10, 2007, having both internal lining and cathodic protection must meet the following:

(i) The lining was installed in accordance with the requirements of § 245.434.

(ii) The cathodic protection system meets § 245.421(b)(1)(ii)(B)—(D).

(c) *Piping upgrading requirements.* Metal piping and fittings that routinely contain regulated substances and are in contact with the ground must be one or more of the following:

(1) Replaced with piping meeting the requirements of new piping in § 245.421(b)(2)(i) and (ii).

(2) Cathodically protected in accordance with a code of practice developed by a Nationally-recognized association or independent testing laboratory and meets the requirements of § 245.421(b)(2)(ii)(B)—(D).

(3) Installed at a site that is determined to not be corrosive enough to cause a release due to corrosion for the remaining operating life of the piping under § 245.421(b)(2)(iii).

(d) *Spill and overfill prevention equipment.* To prevent spilling and overfilling associated with product transfer to the underground storage tank system, existing underground storage tank systems must comply with new underground storage tank system spill and overfill prevention equipment requirements in § 245.421(b)(3) and (4).

(e) *Under dispenser containment.* When a vertical riser, dispenser and interconnected piping and fittings are added to a storage tank system or replaced, the dispenser must have containment (liquid-tight dispenser pan) meeting requirements in § 245.421(b)(4)(ii).

**§ 245.423. Registration requirements.**

(a) An underground storage tank shall be registered with the Department prior to adding a regulated substance. The owner of a tank that was in use after May 8, 1986, shall have notified the Department of the system's existence.

(b) Owners required to submit notices under subsection (a) shall provide notices to the Department for each tank they own. Owners may provide notice for several tanks using one registration form, but owners who own tanks located at more than one facility shall file a separate registration form for each separate facility.

(c) Notices required to be submitted under subsection (a) shall provide all of the requested information on the registration form for each tank for which notice is required to be given.

(d) Owners and operators of new underground storage tank systems shall certify compliance with the following requirements in the registration form provided by the Department:

(1) Installation of tanks and piping under § 245.421(c) (relating to performance standards for new underground storage tank systems).

(2) Cathodic protection of steel tanks and piping under § 245.421(b)(1) and (2).

(3) Financial responsibility under Subchapter H (relating to financial responsibility requirements for owners and operators of underground storage tanks and storage tank facilities).

(4) Release detection under §§ 245.442 and 245.443 (relating to requirements for petroleum underground storage tank systems; and requirements for hazardous substance underground storage tank systems).

(5) Use of a Department-certified installer under § 245.21 (relating to tank handling and inspection requirements).

(e) Beginning October 24, 1988, a person who sells a tank intended to be used as an underground storage tank or a property containing an existing tank system shall notify the purchaser, in writing, of an owner's obligations under subsection (a). The following form may be used to comply with this requirement:

Federal law (the Resource Conservation and Recovery Act) and Commonwealth law (the Storage Tank and Spill Prevention Act) require that the owner of a regulated underground storage tank notify the Pennsylvania Department of Environmental Protection of the existence of its tank.

Notification for tanks brought into service after August 5, 1989, must be made prior to placing the tank system into service. Consult EPA 40 CFR Part 280 and PA Code Title 25 Chapter 245 to determine if you are affected by these laws.

(f) Every owner, including a new owner of an existing tank system, shall comply with tank registration requirements in Subchapter A (relating to general provisions).

#### **§ 245.425. Reuse of removed tanks.**

A storage tank removed from the ground may be reused as a regulated underground storage tank under the following circumstances:

(1) The tank was properly closed in accordance with § 245.452 (relating to permanent closure and changes-in-service) at the site where previously used.

(2) The tank is installed at the new site by a certified installer.

(3) The new installation meets the requirements of § 245.421 (relating to performance standards for underground storage tank systems).

(4) The tank is compatible with the substance to be stored in accordance with §§ 245.2(c) and 245.433 (relating to general; and compatibility).

(5) Either the manufacturer, a person certified by the manufacturer or a registered professional engineer warrants that the tank meets the requirements of § 245.421(b)(1).

### **GENERAL OPERATING REQUIREMENTS**

#### **§ 245.432. Operation and maintenance including corrosion protection.**

(a) Owners and operators of steel underground storage tank systems with corrosion protection shall comply with the following requirements to ensure that releases due to corrosion are prevented for as long as the underground storage tank system is used to store regulated substances:

(1) Corrosion protection systems shall be operated and maintained to continuously provide corrosion protection to the metal components of that portion of the tank and piping that routinely contain regulated substances.

(2) Underground storage tank systems equipped with cathodic protection systems shall be inspected for proper operation by a qualified cathodic protection tester in accordance with the following requirements:

(i) *Frequency.* Cathodic protection systems shall be tested within 6 months of installation and at least every 3 years thereafter.

(ii) *Inspection criteria.* The criteria that are used to determine that cathodic protection is adequate as required by this section shall be in accordance with a code of practice developed by a Nationally-recognized association.

(3) Underground storage tank systems with impressed current cathodic protection systems shall be inspected or checked every 60 days to ensure the equipment is running properly. At a minimum, the operator or person conducting the 60-day check shall document the date checked, annotate the system's functioning status, and for systems equipped with a direct current readout meter, record the amount of current indicated on the meter.

(4) For underground storage tank systems using cathodic protection, records of the operation of the cathodic protection shall be maintained, in accordance with § 245.435 (relating to reporting and recordkeeping) to demonstrate compliance with the performance standards in this section. These records must provide the following:

(i) The results of the last three inspections required in paragraph (3).

(ii) The results of testing from the last two inspections required in paragraph (2).

(b) Monitoring and observation wells shall be clearly identified using industry codes and standards, and caps shall be secured to prevent unauthorized or accidental access.

(c) Required equipment, including line leak detectors, product sensors and probes, dispenser pans, containment sumps, measuring devices (including gauge sticks), gauges, corrosion protection, spill prevention, overfill prevention and other appurtenances whose failure could contribute to a release of product, shall be maintained in a good state of repair to ensure they function as designed.

(d) Tanks which have been lined and have not had corrosion protection added in accordance with § 245.422(b)(2) (relating to upgrading of existing underground storage tank systems) shall have the lining evaluated by, or under the direct onsite supervision of, a TL certified tank installer or by a professional engineer.

(1) Evaluations must adhere to an evaluation process developed by a National association identified in § 245.405 (relating to codes and standards) (See API 1631 and NLP 631) as follows:

(i) Ten years after lining installation.

(ii) Every 5 years after the preceding evaluation.

(2) Each evaluation finding shall be documented on a form approved by the Department and shall be maintained at the facility for the duration of the tank's operating life.

(e) Lined tank systems that do not meet original design specifications or have not been evaluated as required in subsection (d)(1) and (2) shall be emptied, removed from service and permanently closed in accordance with §§ 245.451 and 245.452 (relating to temporary closure; and permanent closure and changes-in-service).

(f) Primary and secondary containment structure must be maintained in a leak free condition. If infiltration or a release is detected within the secondary containment, the defective component shall be repaired in accordance with § 245.434 (relating to repairs allowed). Repairs, including

those performed to stop infiltration, shall be tested in accordance with § 245.434(5).

(g) A check for water in petroleum tanks shall be performed monthly and excess water shall be promptly removed as necessary. Water may not exceed the tank manufacturer's recommendations, product supplier's guidelines, or 2 inches of accumulation in the bottom of the tank, whichever is less. No amount of water is desirable in gasoline containing ethanol. Therefore, water should not be allowed to accumulate in tanks containing ethanol. Excess water shall be properly managed in accordance with applicable State and Federal requirements, such as Chapter 299 (relating to storage and transportation of residual waste), 40 CFR 261, Subpart B (relating to hazardous waste identification) and 29 CFR 1910 (relating to occupational safety and health standards).

#### § 245.434. Repairs allowed.

Owners and operators of underground storage tank systems shall ensure that repairs will prevent releases due to structural failure or corrosion as long as the underground storage tank system is used to store regulated substances. The repairs must meet the following requirements:

(1) Repairs involving a tank handling activity shall be performed by or under the direct, onsite supervision and control of a certified installer.

(2) Repairs to underground storage tank systems shall be properly conducted in accordance with a code of practice developed by a Nationally-recognized association or an independent testing laboratory.

(3) Repairs to fiberglass reinforced plastic tanks may be made by the manufacturer's authorized representatives, and shall be made in accordance with a code of practice developed by a Nationally-recognized association or an independent testing laboratory.

(4) Metal pipe sections and fittings that have released product as a result of corrosion or other damage shall be replaced. Fiberglass pipes and fittings may be repaired; repairs shall be made in accordance with the manufacturer's specifications.

(5) Tanks, containment sumps, and piping repaired in response to a release shall be tightness tested in accordance with §§ 245.421(b)(4)(ii), 245.444(3) and 245.445(2) (relating to performance standards for underground storage tank systems; methods of release detection for tanks; and methods of release detection for piping), respectively, prior to placing the system back into service except as provided as follows:

(i) The repaired tank is internally inspected in accordance with a code of practice developed by a Nationally-recognized association or an independent testing laboratory.

(ii) The repaired portion of the underground storage tank system is monitored monthly for releases in accordance with a method specified in § 245.444(4)—(9).

(iii) Another test method is used that is determined by the Department to be at least as protective of human health and the environment as those listed in subparagraphs (i) and (ii).

(6) Within 6 months following the repair of a cathodically protected underground storage tank system, the cathodic protection system shall be tested in accordance

with § 245.432(a)(2) and (3) (relating to operation and maintenance including corrosion protection) to ensure that it is operating properly.

(7) Underground storage tank system owners and operators shall maintain records of each repair, including those in response to a release, for the remaining operating life of the underground storage tank system.

#### § 245.435. Reporting and recordkeeping.

(a) Owners and operators of underground storage tank systems shall cooperate fully with inspections, monitoring and testing conducted by the Department, certified installers or certified inspectors, as well as requests for document submission, testing and monitoring by the owner or operator under section 107(c) of the act (35 P. S. § 6201.107(c)).

(b) Owners and operators shall maintain required records either onsite at the underground storage tank facility or at a readily available alternative site. Records maintained at the underground storage tank facility shall be immediately available for inspection by the Department and certified inspectors. If records are maintained offsite, the records shall be easily obtained and provided for inspection or for review by the Department upon request.

(1) *Reporting.* Owners and operators shall submit the following applicable information to the Department:

(i) Notification in accordance with § 245.41 (relating to tank registration requirements) for underground storage tank systems, including change of ownership, closure of a tank system, change of substance stored and change of tank status, and certification of installation for new underground storage tank systems (§ 245.421(c) (relating to performance standards for underground storage tank systems)).

(ii) Reports of confirmed, reportable releases (§ 245.305(d) (relating to reporting releases)).

(iii) A site characterization report (§ 245.310 (relating to site characterization report)).

(iv) Remedial action plans (§ 245.311 (relating to remedial action plan)), remedial action progress reports (§ 245.312 (relating to remedial action)) and remedial action completion reports § 245.313 (relating to remedial action completion report)).

(v) A notification before installation, permanent closure or change-in-service of a storage tank or storage tank system (§ 245.421(a)(2) and § 245.452(a) (relating to permanent closure and changes-in-service)).

(vi) In the case of permanent closure, closure records to the Department when requested.

(2) *Permanent recordkeeping.* Owners and operators shall maintain records for new systems and available records for existing systems for the operational life of the tank system and retain the records for a minimum of 1 year after the tank system has been removed. Permanent records include the following:

(i) A corrosion expert's analysis of site corrosion potential if corrosion protection equipment is not used (§ 245.421(b)(1)(iv) and (2)(iii) and § 245.422(b)(2)(iv) and (c)(3) (relating to upgrading of existing underground storage tank systems)).

(ii) The corrosion expert's design of an impressed current system or field-installed cathodic protection system or similar information that demonstrates compliance with §§ 245.421(b)(2)(ii)(B) and 245.422(b)(2) and (c)(2).

(iii) Documentation of tank system installation, system modification and tank upgrade activities.

(iv) Tank system assessment records prior to upgrading in accordance with § 245.422(b).

(v) Documentation of the installation testing and commissioning reports required for corrosion protection systems by manufacturers and National standards in accordance with § 245.432 (relating to operation and maintenance including corrosion protection).

(vi) Documentation of underground storage tank system repairs, including those in response to a release (§ 245.434(6) (relating to repairs allowed)).

(vii) Tank lining evaluation reports (§ 245.432(d)).

(viii) Documentation showing Department approval for a variance or alternate leak detection method (§§ 245.404 and 245.443 (relating to variances; and requirements for hazardous substance underground storage tank systems)).

(3) Temporary records shall be maintained as follows:

(i) The current Storage Tank Registration/Permit Certificate.

(ii) Tank and pipe release detection records for the past 12 months, including written certifications or performance claims for the release detections methods in use and documentation of investigations of suspected releases (§§ 245.304 and 245.446 (relating to investigation of suspected releases; and release detection recordkeeping)).

(iii) The last annual check/testing, and maintenance records of leak detection equipment including probes, monitors, line leak detectors and automatic tank gauges that verify they are working properly and tested as required by the equipment manufacturers.

(iv) Documentation of the last two impressed current cathodic protection system inspection checks for each 60-day test period (§ 245.432).

(v) The last cathodic protection survey, done at 3-year intervals, on impressed current and galvanic cathodic protection systems in accordance with (§ 245.432).

(vi) Results of the site investigation conducted at permanent closure or change-in-service (§ 245.455 (relating to closure records)).

(vii) A properly completed closure report required under § 245.452(f).

(viii) Documentation of the last test that demonstrates each containment sump, dispenser pan and spill containment bucket installed or repaired after November 10, 2007, were tested and verified to be liquid-tight in accordance with §§ 245.421(b)(4) and 245.434(5).

#### RELEASE DETECTION

#### § 245.441. General requirements for underground storage tank systems.

\* \* \* \* \*

(c) Owners and operators of underground storage tank systems shall comply with the release detection requirements of this subchapter.

(d) An existing tank system that cannot apply a method of release detection that complies with this subchapter must immediately empty the tank and complete the closure procedures in §§ 245.451—245.455 (relating to out-of-service underground storage tank systems and closure).

(e) For existing tank systems equipped with double-walled pressurized piping that routinely contains regu-

lated substance, and containment sumps at the piping junctures and dispensers, the containment sumps and dispenser pan sumps of these systems shall be monitored monthly beginning November 10, 2009, and monthly monitoring records maintained for the last 12 months of monitoring. Monitoring shall be accomplished by one of the following methods:

(1) Monthly visual check of the sumps.

(2) Interstitial monitoring under § 245.444(7) (relating to methods of release detection for tanks) (also see secondary containment—liquid sump sensors in PEI RP 100).

#### § 245.442. Requirements for petroleum underground storage tank systems.

(a) Owners and operators of underground storage tank systems installed after November 10, 2007, shall perform interstitial monitoring, at least once every 30 days, in accordance with § 245.444(7) (relating to methods of release detection for tanks) of both the tank and underground piping that routinely contains a product (regulated substance). In addition, pressurized piping for these systems must be equipped and operated with an automatic line leak detector with an automatic pump shut off device in accordance with § 245.445(1) (relating to methods of release detection for piping).

(b) Owners and operators of petroleum underground storage tank systems installed on or before November 10, 2007, shall provide release detection for tanks and piping as follows:

(1) *Tanks.* Tanks shall be monitored at least every 30 days for releases using one of the methods listed in § 245.444(4)—(9) except that:

(i) Underground storage tank systems that meet the performance standards in § 245.421 (relating to performance standards for underground storage tank systems), may use monthly inventory control requirements in § 245.444(1) or (2), and tank tightness testing (conducted in accordance with § 245.444(3)) until 10 years after the tank was first installed or upgraded under § 245.422(b), but not later than December 22, 2008.

(ii) Underground storage tank systems with a capacity of 1,001 to 2,000 gallons may use manual tank gauging, conducted in accordance with § 245.444(2) and a tank tightness test at least every 5 years until November 10, 2017.

(iii) Tanks with a capacity of 550 gallons or less may use manual tank gauging, conducted in accordance with § 245.444(2) as long as they continue to meet requirements of this subchapter.

(iv) Tanks with a capacity of 551 to 1,000 gallons using the longer test times specified may use manual tank gauging, conducted in accordance with § 245.444(2) as long as they continue to meet requirements of this subchapter.

(2) *Piping.* Underground piping that routinely contains regulated substances shall be monitored for releases in a manner that meets one of the following requirements:

(i) *Pressurized piping.* Underground piping that conveys regulated substances under pressure shall meet the following requirements:

(A) Be equipped with an automatic line leak detector in accordance with § 245.445(1) (relating to methods of release detection for piping).

(B) Have an annual line tightness test conducted in accordance with § 245.445(2) or have monthly monitoring conducted in accordance with § 245.445(3).

(ii) *Suction piping.* Underground piping that conveys regulated substances under suction shall either have a line tightness test conducted at least every 3 years and in accordance with § 245.445(2), or use a monthly monitoring method conducted in accordance with § 245.445(3). Release detection is not required for suction piping that is designed and constructed to meet the following standards:

(A) The below grade piping operates at less than atmospheric pressure.

(B) The below grade piping is sloped so that the contents of the pipe will drain back into the storage tank if the suction is released.

(C) No more than one check valve is included in each suction line.

(D) Check valves are located directly below and as close as practical to or within the suction pump.

(E) A method is provided that allows compliance with clauses (B)—(D) to be readily determined.

**§ 245.444. Methods of release detection for tanks.**

Each method of release detection for tanks used to meet the requirements of § 245.442 (relating to requirements for petroleum underground storage tank systems) shall be conducted in accordance with the following:

\* \* \* \* \*

(3) *Tank tightness testing.* Tank tightness testing, or another test of equivalent performance, must be capable of detecting a 0.1 gallon per hour leak rate from any portion of the tank that routinely contains product while accounting for the effects of thermal expansion or contraction of the product, vapor pockets, tank deformation, evaporation or condensation, and the location of the water table.

(4) *Automatic tank gauging.* Equipment for automatic tank gauging that tests for the loss of product and conducts inventory control must meet one of the following requirements:

(i) The automatic product level monitor test can detect a 0.2 gallon per hour leak rate from any portion of the tank that routinely contains product.

(ii) For tank gauges installed prior to December 22, 1990, that do not meet the requirements of subparagraph (i), inventory control, or another test of equivalent performance, shall also be conducted in accordance with paragraph (1). Tank gauges shall be replaced or be certified by an independent third party verifying the gauge's ability to detect the leak rate in subparagraph (i) following EPA evaluation protocol by November 10, 2008.

(5) *Vapor monitoring.* Testing or monitoring for vapors within the soil gas of the excavation zone must meet the following requirements:

\* \* \* \* \*

(vi) In the underground storage tank excavation zone, the site is evaluated by a licensed professional under the Engineer, Land Surveyor and Geologist Law (63 P. S. §§ 148—158.2) to ensure compliance with subparagraphs (i)—(iv) and to establish the number and positioning of monitoring wells that will detect releases within the excavation zone from any portion of the tank that routinely contains product. The written site evaluation report

authenticated by the person completing the evaluation must be maintained at the facility for the duration of the leak detection method.

(6) *Groundwater monitoring.* Testing or monitoring for liquids on the groundwater must meet the following requirements:

(i) The regulated substance stored is immiscible in water and has a specific gravity of less than one.

(ii) Groundwater is never more than 20 feet from the ground surface and the hydraulic conductivity of the soils between the underground storage tank system and the monitoring wells or devices is not less than 0.01 cm/sec—for example, the soil should consist of gravels, coarse to medium sands, coarse silts or other permeable materials.

(iii) The slotted portion of the monitoring well casing shall be designed to prevent migration of natural soils or filter pack into the well and to allow entry of regulated substances on the water table into the well under both high and low groundwater conditions.

(iv) Monitoring wells shall be sealed from the ground surface to the top of the filter pack.

(v) Monitoring wells or devices intercept the excavation zone or are as close to it as is technically feasible.

(vi) The continuous monitoring devices or manual methods used can detect the presence of at least 1/8 of an inch of free product on top of the groundwater in the monitoring wells.

(vii) Within and immediately below the underground storage tank system excavation zone, the site is evaluated by a licensed professional under the Engineer, Land Surveyor and Geologist Law to ensure compliance with subparagraphs (i)—(v) and to establish the number and positioning of monitoring wells or devices that will detect releases from any portion of the tank that routinely contains product. The written site evaluation report authenticated by the person completing the evaluation must be maintained at the facility for the duration of the leak detection method.

(viii) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering in accordance with § 245.432(b).

(7) *Interstitial monitoring.* Interstitial monitoring between the underground storage tank system and a secondary barrier immediately around or beneath it may be used, but only if the system is designed, constructed and installed to detect a leak from any portion of the tank that routinely contains product and also meets one of the following requirements:

\* \* \* \* \*

**§ 245.445. Methods of release detection for piping.**

Each method of release detection for piping used to meet the requirements of § 245.442 (relating to requirements for petroleum underground storage tank systems) shall be conducted in accordance with the following:

(1) *Automatic line leak detectors.* Methods which alert the operator to the presence of a leak by restricting or automatically shutting off the flow of regulated substances through piping or triggering an audible or visual alarm may be used only if they detect leaks of 3 gallons per hour at 10 pounds per square inch line pressure within 1 hour. An annual test of the operation of the leak detector shall be conducted in accordance with the manufacturer's requirements. Underground storage tank systems installed or replaced after November 10, 2007, must



have line leak detectors with an automatic pump shut-off device that shuts off the flow of regulated substances through pressurized piping that routinely contains and conveys product from the tank (See § 245.421(a)(1) (relating to performance standards for underground storage tank systems)).

(2) *Line tightness testing.* A periodic test of piping may be conducted only if it can detect a 0.1 gallon per hour leak rate at 1 1/2 times the operating pressure.

(3) *Applicable tank methods.* The methods in § 245.444(5)—(9) (relating to methods of release detection for tanks) may be used if they are designed to detect a release from any portion of the underground piping that routinely contains regulated substances.

#### **OUT-OF-SERVICE UNDERGROUND STORAGE TANK SYSTEMS AND CLOSURE**

##### **§ 245.451. Temporary closure (out-of-service).**

(a) When an underground storage tank system is temporarily closed (out-of-service), the owner shall complete and submit an amended registration form to the Department within 30 days in accordance with § 245.41 (tank registration requirements).

(b) Owners and operators shall continue operation and maintenance of corrosion protection in accordance with § 245.432 (relating to operation and maintenance including corrosion protection), while the tank is temporarily out-of-service, and release detection in accordance with §§ 245.441—245.446 (relating to release detection) until the tank is empty. Records shall continue to be kept in accordance with § 245.435 (relating to reporting and recordkeeping).

(c) Owners and operators shall empty a tank being placed temporarily out-of-service within 30 days or prior to submission of the registration form to the Department, whichever occurs first, unless directed otherwise by the Department. Removed contents shall be reused, treated or disposed of in accordance with State and Federal requirements, such as Chapter 299 (relating to storage and transportation of residual waste) and 29 CFR 1910 (relating to occupational safety and health standards). Release detection is not required as long as the underground storage tank system is empty. The underground storage tank system is empty when all materials have been removed using commonly employed practices so that no more than 2.5 centimeters (1 inch) of residue, or 0.3% by weight of the total capacity of the underground storage tank system, remain in the system. Owners and operators shall maintain release detection records required under § 245.446(2) (relating to release detection recordkeeping) for the most recent 12-month period of active operation.

(d) Subchapter D (relating to corrective action process for owners and operators of storage tanks and storage tank facilities and other responsible parties) shall be complied with if a release is suspected or confirmed.

(e) Routine facility inspection requirements at 3-year intervals in § 245.411(c) (relating to inspection frequency) may be delayed for a storage tank facility with all tank systems temporarily closed, unless notified otherwise by the Department under § 245.21(c) and (d) (relating to tank handling and inspection requirements). A delayed inspection shall be performed on a storage tank system or facility in temporary closure when returning the tank system to operating status.

(f) When an underground storage tank system is temporarily closed for 3 months or more, owners and operators shall also comply with the following requirements:

(1) Vent lines shall be open and functioning.

(2) All other lines, pumps, manways and ancillary equipment shall be capped and secure.

(g) When an underground storage tank system is temporarily closed for more than 12 months, owners and operators shall:

(1) Permanently close the underground storage tank system if it does not meet either performance standards in § 245.421 (relating to performance standards for underground storage tank systems) for new underground storage tank systems or the upgrading requirements in § 245.422 (relating to upgrading of existing underground storage tank systems), except that the spill and overfill equipment requirements do not have to be met.

(2) Permanently close the substandard underground storage tank systems at the end of this 12-month period in accordance with §§ 245.452—245.455, unless the Department provides an extension of the 12-month temporary closure period.

(3) Complete a site assessment in accordance with § 245.453 (relating to assessing the site at closure or change-in-service) before an extension may be applied for.

(h) Underground storage tank systems that meet performance standards in § 245.421 or the upgrading requirements in § 245.422 shall be permanently closed within 3 years of being placed temporarily out-of-service or by November 10, 2010, whichever is later, unless the Department grants an extension to this temporary closure period. The Department may establish conditions and require submission of documentation associated with extension of the temporary closure period, such as the following:

(1) Requirements for inspection under §§ 245.21 and 245.411.

(2) Verification and testing of cathodic protection systems under § 245.432.

(3) Site assessment under § 245.453.

(4) Other considerations determined by the Department.

##### **§ 245.453. Assessing the site at closure or change-in-service.**

(a) Before permanent closure or a change-in-service is completed, owners and operators shall measure for the presence of a release where contamination is most likely to be present at the underground storage tank site. Owners and operators shall sample for releases. Sampling may be accomplished in a manner consistent with the Department technical document entitled "Closure Requirements for Underground Storage Tank Systems" or in a manner at least as protective of public health and safety and the environment and which meets all statutory and regulatory requirements.

(b) If contaminated soils, contaminated groundwater or free product as a liquid or vapor is discovered under subsection (a), or by another manner, owners and operators shall begin corrective action in accordance with Subchapter D (relating to corrective action process for owners and operators of storage tanks and storage tank facilities and other responsible parties).

**Subchapter F. TECHNICAL STANDARDS FOR  
ABOVEGROUND STORAGE TANKS AND  
FACILITIES**

**GENERAL**

**§ 245.503. Variances.**

When unique or peculiar circumstances make compliance with this subchapter technically impractical, infeasible or unsafe, the Department may, upon written application from the owner/operator of a storage tank system subject to this subchapter, grant a variance from one or more specific provisions of this subchapter.

(1) A variance may only be granted if the storage tank system meets alternative technical standards that fully protect human health and the environment.

(2) A written application for a variance shall be submitted to the Department and provide the following information:

(i) The facility name and identification number for which the variance is sought.

(ii) Specific sections of this subchapter from which the variance is sought.

(iii) The unique or peculiar conditions which make compliance with the sections identified in subparagraph (ii) technically impractical, infeasible or unsafe.

(iv) Evidence, including data, plans, specifications and test results, which supports an alternative design, practice, schedule or method as being at least as protective of human health and the environment as the requirement of the sections identified in subparagraph (ii).

(3) New technologies may be granted a variance. New technologies shall be reviewed and documented by a professional engineer and documentation provided to the Department with the variance request.

(4) The Department will not grant a variance which would result in regulatory controls less stringent than other applicable Federal or State regulations, such as 37 Pa. Code Part I, Subpart B (relating to flammable and combustible liquids) and 40 CFR Part 112 (relating to oil pollution prevention).

(5) When granting the variance, the Department may impose specific conditions necessary to assure that the variance will adequately protect the public health, safety or welfare and the environment.

(6) The Department will provide to the applicant a written notice of approval, approval with conditions or denial.

**§ 245.504. Referenced organizations.**

(a) Nationally-recognized associations which are referenced throughout this subchapter are as follows:

- (1) American Concrete Institute (ACI).
- (2) American National Standards Institute (ANSI).
- (3) American Petroleum Institute (API).
- (4) American Society of Mechanical Engineers (ASME).
- (5) American Society for Nondestructive Testing (ASNT).
- (6) American Society for Testing and Materials (ASTM).
- (7) NACE International—The Corrosion Society (NACE).
- (8) National Fire Protection Association (NFPA).

(9) Petroleum Equipment Institute (PEI).

(10) SSPC—The Society for Protective Coatings (SSPC).

(11) Steel Tank Institute (STI).

(12) Underwriters Laboratory (UL).

(b) Nationally-recognized codes and standards shall be used in conjunction with manufacturer's specifications to comply with this subchapter. When used to meet the technical standards and requirements of this subchapter, the most current or latest edition of the codes and standards shall be applied. Other Nationally-recognized codes and standards, not referenced in this part, may also be used to comply with this subchapter, when approved by the Department.

(c) When Nationally-recognized codes and standards or manufacturer's specifications are updated, facilities or storage tank systems installed to previously existing standards prior to the update, will not automatically be required to be upgraded to meet the new standard, unless specifically required in the revised standards or by the Department.

(d) Regulatory requirements shall prevail over Nationally-recognized codes and standards whenever there is a conflict.

**§ 245.505. Applicability.**

Existing tanks that become regulated due to the addition of new regulated substances as defined in § 245.1 (relating to definitions) (See definition of "regulated substance" (i)(C)(I) and (II))), and the regulation of aboveground tanks greater than 30,000 gallons capacity, storing heating oil that is consumed on the premises (See definition of "consumptive use" in § 245.1) are subject to the requirements of this chapter and shall be registered with the Department by January 9, 2008. In addition, these tanks are temporarily excluded from the following requirements:

(1) Monitoring requirements in § 245.541(c) (relating to overfill prevention requirements) until November 10, 2010.

(2) In-service inspection requirements in § 245.552 (relating to in-service inspections) until within 5 years of the date of construction or the date of the last inspection or by November 10, 2010, whichever is greater.

(3) Out-of-service inspection requirements in § 245.553 (relating to out-of-service inspections) until November 10, 2010, for tanks not previously inspected or 10 years after construction for tanks without known corrosion rates, whichever is greater, or within projected inspection intervals based on corrosion rates determined at the last out-of-service inspection, but not to exceed 20 years from the date of the last inspection.

**OPERATIONS AND MAINTENANCE**

**§ 245.514. Security.**

An owner/operator is responsible to assure that appropriate security measures and procedures based on the facility location are established and implemented to protect the environment and the public. These security measures and procedures may include, but are not limited to monitoring, fencing, lighting, access control, locked entrances and securing of valves and dispensers.

**DESIGN, CONSTRUCTION AND INSTALLATION**

**§ 245.522. New aboveground tank installations and reconstructions.**

(a) Tanks must be designed and constructed in accordance with an appropriate current code of practice devel-

oped by Nationally-recognized associations such as UL, ACI, API, ASME, ASTM, STI or NACE and will follow applicable engineering specifications.

(b) Tanks must have a stable foundation, capable of supporting the total weight of the tank when full of product without movement, rolling or unacceptable settling. The foundation must minimize corrosion of the tank bottom and meet or exceed the specifications of the tank manufacturer. The foundation design and construction must be based on sound engineering practices.

(c) Tanks shall be tested for tightness in accordance with current codes of practice developed by Nationally-recognized associations and manufacturer's specifications. If a pneumatic test is used for manufactured (shop built) tanks, the fittings, welds, joints and connections shall be coated with a soap solution and checked for leaks. Aboveground field constructed storage tanks shall be hydrostatically tested. Deficiencies shall be remedied prior to tanks being placed into service. Hydrostatic test fluids shall be discharged or disposed of in accordance with State and Federal requirements.

(d) Reconstruction of tanks must follow the current codes of practice developed by Nationally-recognized associations and be accomplished in accordance with sound engineering practices. Reconstructed tanks must be inspected and hydrostatically tested before being placed into service. Reconstructed tanks must meet or exceed requirements specified in § 245.521 (relating to performance standards for aboveground storage tanks). Hydrostatic test fluids shall be discharged or disposed of in accordance with State and Federal requirements.

(e) Aboveground manufactured storage tanks that are relocated to another service site must meet the performance requirements for aboveground storage tanks and shall be tested according to industry standards and inspected before being put back in service.

(f) The Department may require the tank owner to submit documentation of construction design criteria and engineering specifications for review.

#### **§ 245.523. Aboveground storage tanks in underground vaults.**

The following requirements shall be met when an owner or operator chooses to install an aboveground storage tank in an underground vault:

(1) The vault shall completely enclose the tank. There may be no openings in the vault enclosure except those necessary for access to, inspection of, and filling, emptying and venting of the tank. The walls and floor of the vault must be constructed of reinforced concrete at least 6 inches thick. The top, walls and floor shall be designed to withstand the anticipated loading including loading from traffic, soil and groundwater.

(2) The vault must be compatible with the stored substance and have a permeability of less than  $1 \times 10^{-7}$  cm/sec for substance stored and be water tight.

(3) A tank must be in its own vault. Adjacent vaults may share a common wall.

(4) There may be no backfill around the tank and there shall be sufficient space between the tank and the vault to allow inspection of the tank and ancillary equipment.

(5) A vault and its tank must be suitably anchored to withstand uplifting by either water or released substance, including when the tank is empty.

(6) Connections shall be provided to permit venting of each vault to dilute, disperse and remove vapors prior to personnel entering the vault.

(7) A vault must be equipped with a continuous leak detection system capable of detecting vapors and liquids including water. The detection system must activate an alarm that automatically shuts down the dispensing system if a release occurs.

(8) A vault must have a means for personnel entry. The entry point must have a warning sign indicating the need for procedures for safe entry into a confined space. An entry point must be secured against unauthorized entry and vandalism.

(9) A suitable means to admit a fire suppression agent shall be provided for each vault.

(10) Tanks and ancillary equipment shall be installed, maintained and inspected in accordance with the requirements for aboveground storage tanks in this subchapter.

(11) Underground piping distribution systems for each tank system used to dispense class I or class II motor fuels for resale must be provided with release detection equivalent to underground piping release detection addressed in § 245.445 (relating to methods of release detection for piping) and monitored as required in paragraph (7) with monitoring records retained for 12 months as required under § 245.516 or § 245.615 (relating to recordkeeping requirements).

#### **§ 245.524. Aboveground tank modifications.**

(a) Modifications shall be designed and implemented in accordance with current codes of practice developed by Nationally-recognized associations such as API, ACI, ASME, ASTM, NACE, STI or UL.

(b) Modifications shall be performed in accordance with Nationally-recognized codes and manufacturer's specifications or a professional engineer's design requirements.

(c) Aboveground tanks which are modified shall be inspected and tested according to industry standards before being put in service when a major modification has been performed on the tank shell, tank roof or tank bottom. Deficiencies shall be remedied before being returned to service.

(d) The Department may require the tank owner to submit documentation of construction modification design criteria and engineering specifications for review.

### **CORROSION AND DETERIORATION PREVENTION**

#### **§ 245.534. Interior linings and coatings.**

(a) Coating or lining systems may be used to protect tank interiors from corrosion. The coating or lining system shall be designed in accordance with current codes of practices such as API 652 or associations such as NACE. Any appropriate coating which is bonded firmly to the interior surfaces may be used to protect a tank from corrosion.

(b) Specific requirements are as follows:

(1) Coatings and linings shall be chemically compatible with the substance to be stored.

(2) Coating material shall be applied and cured in strict accordance with manufacturer's specifications.

(3) Surfaces shall be prepared and inspected in accordance with applicable Nationally-recognized codes and standards.

(4) Coatings used to protect the bottom of a tank shall extend up the side of the tank a minimum of 18 inches, while some forms of lining may cover the entire tank interior.

(5) Coatings shall be examined for blisters and air pockets, and tested for pinholes. The coating thickness shall be checked to assure compliance with manufacturer's specifications.

(6) Defects in coating or lining systems shall be repaired or corrected prior to putting the tank or system into service.

(c) Interior linings or coatings shall be inspected by a third-party, Department-certified, aboveground storage tank inspector at installation, when undergoing a major modification, and at least every 10 years or as warranted or recommended by the manufacturer or design engineer.

#### RELEASE PREVENTION AND LEAK DETECTION

##### § 245.541. Overfill prevention requirements.

(a) An owner/operator shall ensure that releases from overfills do not occur. Transfer of stored substance may not exceed the volume available in the receiving tank and the transfer shall be adequately monitored. Immediate action shall be taken to stop the flow of regulated substance prior to exceeding tank capacity or in the event that an equipment failure occurs.

(b) Tanks must be installed with the following:

(1) A gauge or monitoring device which accurately indicates the level or volume in the tank and is visible to the individual responsible for the transfer of product. The monitoring device shall be installed, calibrated and maintained in accordance with manufacturer's specifications.

(2) A high-level alarm with an automatic high-level cut-off device or a high-level alarm with a manned operator shutdown procedure in operation.

(c) Existing tanks must have a gauge or monitoring device installed by October 11, 2000.

(d) An existing tank system which is taken out of service to perform a scheduled out-of-service inspection or a major modification to the tank shall be upgraded with a high-level alarm with a cut-off device or a high-level alarm with a manned operator shutdown procedure prior to being put back in service.

(e) An existing tank system which has not been required to be taken out of service to perform a scheduled inspection or modification must have overfill protection consistent with National industry standards, such as API 2350, NFPA 30 or PEI RP 200 by November 10, 2010.

##### § 245.542. Containment requirements for aboveground storage tank systems.

(a) Containment structures must be compatible with the substance stored and minimize deterioration to the storage tank system.

(b) Containment areas shall be designed, maintained and constructed in accordance with sound engineering practices adhering to Nationally-recognized codes of practice such as NFPA, NACE, ACI or API and in compliance with State and Federal requirements.

(c) Secondary containment under the tank bottom and around underground piping must be designed to direct any release to a monitoring point to meet leak detection requirements. Secondary containment shall be provided on a new tank at installation, and shall be provided on an existing tank at reconstruction or relocation of the tank

or when the tank floor is replaced (See API 650 Appendix I). Permeability of the secondary containment must be less than  $1 \times 10^{-7}$  cm/sec at anticipated hydrostatic head and shall be verified at the time of installation.

(d) Aboveground tanks must have emergency containment structures, such as dike fields, curbing and containment collection systems, which contain releases from overfills, leaks and spills, when a new tank system is installed or at the next out-of-service inspection for existing tank systems as established in § 245.553(d) (relating to out-of-service inspections) or by November 10, 2010, whichever occurs first.

(1) Permeability of newly installed or replacement emergency containment structures must be less than  $1 \times 10^{-6}$  cm/sec at anticipated hydrostatic head and be of sufficient thickness to prevent the released substance from penetrating the containment structure for a minimum of 72 hours, and until the release can be detected and recovered.

(2) Emergency containment structures for existing aboveground storage tanks must meet one of the following standards by November 10, 2010, or at the next out-of-service inspection, prior to the tank being placed back into service, whichever occurs first:

(i) The standards for new emergency containment structures for aboveground storage tanks in paragraph (1).

(ii) Verification by a professional engineer that the emergency containment structure, coupled with the tank monitoring program and response plan, is capable of detecting and recovering a release and is designed to prevent contamination of the waters of this Commonwealth. Verification may be conducted in a manner consistent with the Department's technical document entitled "Verification of Emergency Containment Structures for Aboveground Storage Tanks" or in a manner at least as protective of public health and safety and the environment and which meets all statutory and regulatory requirements. Verification of earthen structures should include determination of the containment structure permeability following Nationally-recognized testing methods such as ASTM Methods and Engineering Standards Listed in API Publication 351.

(3) Verification of the containment structure is valid until conditions at the site, monitoring program, response plan or procedures change.

(4) Transfers of regulated substances to a tank within the emergency containment shall be monitored by designated personnel for the duration of the transfer.

(e) Emergency containment areas, such as dike fields, must be able to contain 110% of the capacity of the largest tank in the containment area.

(f) Stormwater shall be removed from the emergency containment area as soon as possible or when the water is in contact with the tank or piping and prior to the capacity of containment being reduced by 10% or more. Manually operated pumps or siphons and manually operated gravity drains may be used to empty the containment. If drain valves are used they shall be secured in the closed position when not in use. Discharge or disposal of substances from the containment structure must comply with applicable State and Federal requirements.

##### § 245.543. Leak detection requirements.

(a) Aboveground tank systems shall be provided a method of leak detection at installation that is capable of

detecting a release. The leak detection method shall be monitored at least monthly and shall be installed, calibrated, operated and maintained in accordance with industry practices and manufacturer's specifications.

(1) The area beneath the tank bottom shall be monitored for leakage by visual, mechanical or electronic leak detection methods.

(2) Observation wells outside of the secondary containment structure do not satisfy the leak detection requirements.

(b) Existing aboveground storage tank systems with secondary containment shall implement a monthly leak detection method as required by subsection (a). Monthly visual inspections shall be an acceptable method of leak detection.

(c) Existing aboveground storage tanks without secondary containment under the bottom of the tank that are in contact with the soil, such as vertical flat bottom tanks, and do not have cathodic protection or an internal lining shall be leak tested at the next scheduled in-service inspection consistent with subsection (d) and continue to be leak tested at each in-service inspection thereafter, until the tank is upgraded.

(d) Tank leak test must follow a Nationally-recognized procedure that is based on a volumetric/mass measurement, an acoustic measurement, or a soil-vapor monitoring method, such as those addressed in API Publication 334 "Guide to Leak Detection in Aboveground Storage Tanks." The test shall be performed by a third-party inspector or a technician who has experience with the selected method and is qualified by the test equipment manufacturer or certified by the relevant industry association such as ASNT (See Recommended Practice No. SNT-TC-1A) and is not an employee of the tank owner.

(e) Aboveground piping shall be visually checked for leaks in accordance with the facility operations and maintenance plan.

#### **ABOVEGROUND STORAGE TANK INSPECTIONS**

##### **§ 245.552. In-service inspections.**

(a) The in-service inspection must follow the guidelines of a Nationally-recognized association such as API 653, API 570 and applicable engineering criteria (See §§ 245.524(b), 245.542(d)(2) and 245.543(d) (relating to aboveground tank modifications; containment requirements for aboveground storage tank systems; and leak detection requirements)).

(b) The in-service inspection must evaluate the following:

- (1) Containment areas.
- (2) Foundation.
- (3) Tank shell.
- (4) Tank roof.
- (5) Appurtenances.
- (6) Ancillary equipment including piping.
- (7) Leak detection method.
- (8) Cathodic protection system, if installed.
- (9) Tank system integrity and suitability for service.

(c) Inspection information shall be submitted to the Department on a form provided by the Department and include the results of the evaluation in subsection (b) and the following:

(1) A determination of the corrosion rate of the shell and piping.

(2) A calculation of the life of the tank shell and piping based on corrosion rate.

(3) The next inspection schedule based on the API 653 calculated service life method or 1/4 of the corrosion rate life with a maximum of 5 years between inspections. Other site-specific conditions, for example, maintenance practices, previous repairs, the nature of the substance stored or soil conditions that may affect corrosion rate life or tank system integrity and should be considered when projecting tank service life and the next inspection interval.

(4) The recommendations for maintaining tank system integrity.

(d) Inspection intervals for in-service inspections are as follows:

(1) Aboveground tanks installed after October 11, 1997, shall be initially inspected within 5 years of installation.

(2) Existing tanks shall be initially inspected as follows:

(i) Tanks over 5 years old without a previous inspection shall be inspected by October 11, 1999.

(ii) Tanks with an inspection more than 3 years prior to October 11, 1997, shall be inspected by October 11, 2000.

(iii) Tanks with an inspection within 3 years prior to October 11, 1997, shall be inspected within 6 years of the previous inspection.

(3) Tanks shall have an in-service inspection within 1/4 of the corrosion rate life with a maximum of 5 years from the previous inspection or installation.

(4) An out-of-service inspection may replace an in-service inspection.

(5) An in-service inspection interval may be delayed under § 245.562 (relating to temporary removal-from-service) for a tank that is temporarily removed from service. The delayed inspection shall be conducted prior to placing regulated substance in a tank and returning the tank to operating status. Deficiencies noted during inspection shall be addressed and remedied and an amended registration form submitted to the Department prior to returning the tank to operating status.

(e) Inspection recommendations shall be addressed and deficiencies remedied. When substantial modifications are necessary to correct deficiencies, they shall be made in accordance with manufacturer's specifications and engineering design criteria (See §§ 245.522(a) and (b), 245.524(b)(2), 245.532(b) and (c) and 245.534(c)). The Department may require submission and review of all documentation relating to these remedies. Required tank handling activities are reported to the Department by the certified installer. Tank handling activities involving major modifications shall also be inspected by a certified aboveground storage tank inspector and reported to the Department.

(f) The complete inspection report shall be kept at the facility until the next out-of-service inspection is completed.

##### **§ 245.553. Out-of-service inspections.**

(a) Inspections must follow the guidelines of a Nationally-recognized association such as API 653, API 570 or

ASME and applicable engineering criteria (See §§ 245.524(b), 245.534(c), 245.542(d)(2) and 245.543(d)).

(b) The out-of-service inspection must evaluate the following:

- (1) Containment areas.
- (2) Foundation and supports.
- (3) Tank shell.
- (4) Tank roof.
- (5) Tank bottom.
- (6) Appurtenances.
- (7) Ancillary equipment including piping.
- (8) Leak detection method.
- (9) Cathodic protection system, if installed.
- (10) Internal linings and coatings, if installed.
- (11) Tank system integrity and suitability for service.

(c) The tank bottom evaluation of metallic floors must be based on ultrasonic testing and visual examination and include at least one other method of nondestructive examination such as magnetic flux tests or vacuum tests of bottom lap welds (See API 653 and ASTM metallography—nondestructive testing Vol. 03.03). The ultrasonic evaluation must be statistically representative of the whole floor, excluding the release prevention barrier or secondary containment on double bottom tanks.

(d) Inspection information shall be submitted to the Department on a form provided by the Department and include the results of subsection (b) and the following:

- (1) A determination of the corrosion rate for tank shell, bottom plates and piping.
- (2) A calculation of the tank life and piping life based on the corrosion rate.

(3) The schedule for next out-of-service inspection, based on the API 653 calculated service life method or 1/2 of the corrosion rate life, with a maximum of 20 years between inspections. Other site-specific conditions, for example, maintenance practices, previous repairs, internal linings, the nature of the substance stored or soil conditions that may affect corrosion rate life and should be considered when projecting tank service life and the next inspection interval.

(4) The recommendations for maintaining tank system integrity and meeting performance standards.

(e) Inspection intervals for out-of-service inspections are as follows:

(1) Tanks installed after October 11, 1997, shall be initially inspected based on measured or similar service corrosion rates. When the corrosion rate is unknown the tank's actual bottom thickness shall be determined by inspection within 10 years of installation to determine the corrosion rate.

(2) Existing tanks shall be initially inspected as follows:

(i) If corrosion rates are not known, tanks shall be inspected within 10 years of installation or by October 11, 2000, whichever is later.

(ii) If corrosion rates can be determined or are known, tanks shall be inspected at their API 653 calculated service life method or 1/2 the corrosion rate life, from installation or previous out-of-service inspection or by October 11, 2000, whichever is later.

(3) Tanks shall have an out-of-service inspection at their API 653 calculated service life method or 1/2 of the corrosion rate life, with a maximum of 20 years from the last out-of-service inspection.

(4) An out-of-service inspection interval may be delayed under § 245.562 (relating to temporary removal-from-service) for a tank that is temporarily removed from service. The delayed inspection shall be conducted prior to placing regulated substance in a tank and returning the tank to operating status. Deficiencies noted during inspection shall be addressed and remedied and an amended registration form submitted to the Department prior to returning the tank to operating status.

(f) Deficiencies shall be remedied before the tank is returned to service. When substantial modifications are necessary to correct deficiencies, they shall be made in accordance with manufacturer's specifications or an engineer's design criteria (See §§ 245.522(a) and (b), 245.524(b)(2) and 245.532(b) and (c) (relating to new aboveground tank installations and reconstructions; aboveground tank modifications; and cathodic protection system)). The Department may require submission and review documentation relating to these remedies. Required tank handling activities are reported to the Department by the certified installer. Tank handling activities involving major modifications shall also be inspected by a certified aboveground storage tank inspector and reported to the Department.

(g) Aboveground storage tanks which can be completely examined from the exterior are exempt from out-of-service inspections except for tanks that are internally lined.

(h) The completed inspection report for out-of-service inspections shall be kept with the facility records under § 245.516 (relating to recordkeeping requirements).

#### **§ 245.554. Installation and modification inspections.**

(a) Aboveground storage tank systems shall be inspected by a Department-certified inspector at the time of installation in accordance with § 245.522 (relating to new aboveground tank installations and reconstructions), and current Nationally-recognized association's code of practice and manufacturer's specifications. The inspection report shall be kept for the operational life of the tank.

(b) Major modifications shall be inspected by a Department-certified inspector at the time of modification under § 245.524 (relating to aboveground tank modifications) and current codes of practice developed by Nationally-recognized associations prior to being put back in service. The inspection report shall be kept for the operational life of the tank. When substantial modifications are made to the tank floor, the next inspection date projections shall be determined based on the condition of the tank subsequent to those modifications and reported to the Department by the certified inspector on the appropriate inspection form provided by the Department. Other site-specific conditions, for example, maintenance practices, previous repairs, the nature of the substance stored or soil conditions that may affect corrosion rate life or tank system integrity should be considered when projecting tank service life and the next inspection interval.

(c) Tanks which are relocated or reconstructed shall be inspected by a Department-certified inspector and tested for tightness in accordance with § 245.522 and current codes of practice developed by Nationally-recognized associations prior to being put in service. The inspection report shall be kept for the operational life of the tank.

### CLOSURE AND REMOVAL FROM SERVICE REQUIREMENTS

#### § 245.561. Permanent closure or change-in-service.

Before permanent closure or change-in-service is completed, the owner/operator shall comply with the following:

(1) At least 30 days before beginning either a permanent closure or change-in-service to an unregulated tank, or within a lesser time as determined by the Department, the owner/operator shall notify the Department of its intent to permanently close or change-in-service from a regulated tank to an unregulated tank, unless the action is in response to a corrective action or waived by the Department.

(2) The owner/operator shall submit an amended registration form to the Department indicating the change in tank status within 30 days after the change in tank status.

(3) The owner/operator shall complete a site assessment to measure for the presence of any release from the storage tank system and a closure report. The assessment of the site shall be made after the notification to the Department and may be conducted in a manner consistent with the Department's technical document entitled "Closure Requirements for Aboveground Storage Tank Systems" or in a manner at least as protective of public health and safety and the environment and which meets all statutory and regulatory requirements. The results of the site assessment and the closure report shall be retained for 3 years.

(4) If contaminated soil, sediment, surface water or groundwater, or free product is discovered or confirmed by either direct observation or indicated by the analytical results of sampling, the owner/operator shall proceed with the corrective action as required in Subchapter D (relating to corrective action process for owners and operators of storage tanks and storage tank facilities and other responsible parties) or, if applicable, in accordance with remedial action agreements.

(5) Regulated substance and contents removed from the tank system including piping shall be reused, treated or disposed of in a manner consistent with applicable State and Federal waste management requirements.

(6) Tank systems shall be cleaned, rendered free of hazardous vapors and ventilated if left onsite or tank systems shall be emptied and removed from the site in a manner consistent with current industry practices and Bureau of Waste Management requirements such as Chapters 263a and 299 (relating to transporters of hazardous waste; and storage and transportation of residual waste).

(7) Tanks to be permanently closed and left onsite shall be legibly marked with the date of permanent closure.

(8) The appropriate State agency, county and local jurisdiction shall be notified if the tank is under a fire marshal, flammable and combustible liquids or other State agency, county or local jurisdiction permit.

(9) Tanks that are to be closed in place shall:

(i) Be rendered inoperable and incapable of storing liquid substance.

(ii) Be secured against unauthorized entry.

(iii) Meet the requirements specified in paragraphs (1)–(8).

#### § 245.562. Temporary removal-from-service.

(a) The owner/operator shall complete and submit an amended registration form to the Department within 30 days after the change in tank status.

(b) A tank system shall be emptied and regulated substances and contents shall be reused, treated or disposed of in accordance with State and Federal requirements.

(c) A tank shall be secured against unauthorized entry and all piping entering or exiting the tank, excluding vents, shall be capped or blinded.

(d) Tank integrity shall be maintained throughout the temporary removal-from-service time and the tank shall be protected against flotation.

(e) Inspection requirements shall be maintained as specified in §§ 245.551–245.554 (relating to aboveground storage tank inspections). In-service and out-of-service inspection intervals may be delayed for a tank that is temporarily removed from service. The delayed inspections shall be conducted prior to placing regulated substance in a tank and returning the tank to operating status. Deficiencies noted during inspection shall be addressed and remedied and an amended registration form submitted to the Department prior to returning the tank to operating status.

(f) Tanks which are temporarily removed-from-service for 5 years or longer must meet the requirements for permanent closure, unless the time frame for retaining the tank or tanks in temporary removal-from-service status is extended under § 245.503 (relating to variances).

### Subchapter G. SIMPLIFIED PROGRAM FOR SMALL ABOVEGROUND STORAGE TANKS GENERAL

#### § 245.604. Referenced organizations.

(a) Nationally-recognized associations which are referenced throughout this subchapter are as follows:

- (1) American National Standards Institute (ANSI).
- (2) American Petroleum Institute (API).
- (3) American Society of Mechanical Engineers (ASME).
- (4) American Society for Testing and Materials (ASTM).
- (5) NACE International—The Corrosion Society (NACE).
- (6) National Fire Protection Association (NFPA).
- (7) Petroleum Equipment Institute (PEI).
- (8) SSPC—The Society for Protective Coatings (SSPC).
- (9) Steel Tank Institute (STI).
- (10) Underwriters Laboratory (UL).

(b) Nationally-recognized codes and standards shall be used in conjunction with manufacturer's specifications to comply with this subchapter. When used to meet the technical standards and requirements of this subchapter, the most current or latest edition of the codes and standards shall be applied. Other Nationally-recognized codes and standards, not referenced in this part, may also be used to comply with this subchapter, when approved by the Department.

(c) When Nationally-recognized codes and standards are updated, facilities or storage tank systems installed to previously existing standards prior to the update will not

automatically be required to be upgraded to meet the new standard, unless specifically required in the revised standards or by the Department.

(d) Regulatory requirements shall prevail over Nationally-recognized codes and standards whenever there is a conflict.

**§ 245.605. Applicability.**

Existing tanks that become regulated due to the addition of new regulated substances as defined in § 245.1 (relating to definitions) (See "regulated substance" (i)(C)(I) and (II)) are subject to the requirements of this chapter and shall be registered with the Department by January 9, 2008. In addition, these tanks are temporarily excluded from the following technical requirements:

(1) Emergency and secondary containment requirements in § 245.612(e) (relating to performance and design standards) until November 10, 2010.

(2) A method of leak detection as required in § 245.613(a) (relating to monitoring standards) until November 10, 2008.

(3) In-service inspections required in § 245.616(c)(3) (relating to inspection requirements) until November 10, 2010.

**TECHNICAL REQUIREMENTS**

**§ 245.611. Testing requirements for new and substantially modified small aboveground storage tanks.**

(a) Tanks shall be tested for tightness at installation in accordance with current codes of practice developed by Nationally-recognized associations and manufacturer's specifications, except for manufactured, shop built tanks that meet the requirements of subsection (b). The testing shall be completed, as part of the installation process, prior to putting the tank in service.

(b) Manufactured, shop built tanks that are initially tested after full assembly at the plant do not require additional testing at installation if the manufacturer certifies that the tank was tested at the plant and the manufacturer's installation instructions do not specify additional testing.

(c) Tanks that receive major modifications to the tank shell or the tank bottom shall be tested for tightness, in accordance with current codes of practice developed by Nationally-recognized associations or manufacturer's specifications, prior to being returned to service.

**§ 245.612. Performance and design standards.**

(a) Tanks shall be designed, constructed and installed or modified in accordance with current codes of practice developed by Nationally-recognized associations such as API, ASME, ASTM, ANSI, STI and UL and the manufacturer's specifications. Tank handling activities shall be accomplished by a Department-certified aboveground storage tank installer or under the installer's direct, onsite supervision and control.

(b) Tanks must have a stable support or foundation capable of adequately supporting the total weight of the tank and its contents when in use. The support or foundation must meet or exceed the specifications of the tank manufacturer and be designed and constructed in accordance with sound engineering practices.

(c) Ancillary equipment, including piping, shall be designed, installed and modified in accordance with current codes of practice developed by Nationally-recognized associations such as API, SSPC, NACE, ASME, PEI and UL

and the manufacturer's specifications. Ancillary equipment must be compatible with the substance stored and must be adequately protected from corrosion, excessive wear and deterioration. Protective coatings shall be maintained throughout the entire operational life of the storage tank system.

(d) Tanks shall be installed with secondary containment in or under the tank bottom to provide monitoring capability to satisfy leak detection requirements in § 245.613 (relating to monitoring standards) and emergency containment to contain possible releases, such as overfills, leaks and spills. Emergency containment must be sufficiently impermeable to contain any potential release for a minimum of 72 hours and until the release can be detected and fully recovered in an expeditious manner. Double walled tanks may meet both emergency and secondary containment requirements when the tank system is operated with spill and overfill protection controls including the following:

(1) A spill containment bucket at the tank fill point or containment at the remote fill point.

(2) An overfill alarm or prevention device or monitoring gauge and shut down procedure.

(3) Block valves on product lines.

(4) Solenoid valve or antisiphon device, if appropriate (See PEI RP 200).

(e) Existing tanks which do not meet the requirements specified in subsection (d) shall be upgraded with secondary containment by October 11, 2007, and emergency containment by October 11, 2000.

(f) Tanks installed in underground vaults after October 11, 1997, and used for dispensing Class I and Class II motor fuels must comply with § 245.523 (relating to aboveground storage tanks in underground vaults).

(g) The exterior of the tank system shall be protected by an appropriate coating or paint which shall be maintained throughout the entire operational life of the tank system.

(h) Tanks which are internally lined must comply with § 245.534 (relating to interior linings and coatings).

(i) Tanks shall be labeled or marked in a manner consistent with industry standards and which provides for identifying the regulated substance stored from outside the containment area.

**§ 245.614. Requirements for closure.**

(a) Tank systems shall be cleaned, rendered free from hazardous vapors and ventilated if left onsite or shall be emptied and removed from the site in a manner consistent with current industry practices and Bureau of Waste Management requirements such as Chapters 263a and 299 (relating to transporters of hazardous waste; and storage and transportation of residual waste). Piping shall be removed or capped and fill ports shall be secured, capped or dismantled.

(b) The owner shall conduct a visual examination of the surface, soil and area surrounding and underlying the storage tank system for obvious indications or evidence of a release of regulated substance.

(1) If a release is suspected, it shall be investigated in accordance with § 245.304 (relating to investigation of suspected releases).

(2) If a release is confirmed, it shall be reported to the appropriate Department regional office responsible for the



county in which the tank is located in accordance with § 245.305 (relating to reporting releases).

(c) The owner shall complete and submit an amended tank registration form to the Department within 30 days of:

- (1) The completion of permanent closure.
- (2) Change-in-service status of the tank.
- (3) Temporary removal from service.

(d) Temporary removal from service requires that the owner/operator empty the tank system of regulated substances and conduct a visual examination of the area surrounding the tank as required in subsection (b), excluding the surface and soil underlying any tank bottom in contact with the ground. A tank may be considered to be in a temporary removal from service status when the tank is emptied and intended to remain out of use for 1 year or more.

(1) Temporary removal from service may not exceed 5 years, unless the owner can demonstrate an operational need to retain the tank in temporary removal-from-service beyond 5 years and the Department agrees to extend this time frame.

(2) Monitoring standards in § 245.613 (relating to monitoring standards) are not required when a tank is reported to the Department as temporarily removed from service.

(3) Inspection of tanks temporarily removed from service shall be performed in accordance with § 245.616 (relating to inspection requirements). In-service inspection interval may be delayed for a tank that is temporarily removed-from-service. The delayed inspection shall be conducted prior to placing regulated substance in a tank and returning the tank to operating status. Deficiencies noted during inspection shall be addressed and remedied and an amended registration form submitted to the Department prior to returning a tank to operating status.

#### **§ 245.616. Inspection requirements.**

(a) Required inspections of small aboveground storage tanks shall be conducted by Department-certified aboveground storage tank inspectors according to a current Nationally-recognized association's code of practice such as API, STI or ASME or according to manufacturer's specifications and applicable engineering criteria (See § 245.612 (relating to performance and design standards)). Deficiencies noted during the inspection shall be addressed and remedied. When substantial modifications are necessary to correct deficiencies, they shall be made in accordance with manufacturer's specifications and applicable engineering design criteria. The Department may require submission and review of documentation relating to these remedies. The associated tank handling activities are reported to the Department by a certified installer.

(b) Small aboveground field constructed storage tanks shall be inspected at installation, reconstruction or relocation and when a major modification activity is performed on the tank shell or the tank bottom plates.

(c) The owner/operator of small aboveground storage tanks storing regulated substances with a capacity greater than 5,000 gallons and owner/operator of small aboveground storage tanks storing highly hazardous substances with a capacity greater than 1,100 gallons shall have in-service inspections conducted every 10 years or more often when corrosion, deterioration or other specific conditions necessitate. Other specific conditions may in-

clude maintenance practices, previous repairs, the nature of the substance stored and coatings or linings that should be considered when projecting tank service life and the next inspection interval. Internally lined tanks and flat bottom tanks without an interstice or external access to the tank bottom may require further evaluation or internal examination. Inspections shall be phased in for tanks without a previous inspection as follows:

(1) New tanks shall be initially inspected within 10 years of installation.

(2) Existing tanks, less than 10 years old without a previous inspection, shall be inspected by October 13, 2003, or 10 years from the date of installation, whichever is later.

(3) Existing tanks over 10 years old, without a previous inspection, shall be inspected by October 11, 2002.

(4) When an inspection is delayed under § 245.614 (d)(3) (relating to requirements for closure) for a tank in temporary removal-from-service status, the inspection shall be completed and deficiencies remedied prior to returning the tank to operational service.

(d) In-service inspections must evaluate the following:

- (1) Containment areas.
- (2) Foundation and tank supports.
- (3) Tank shell and tank roof, where a roof exists.
- (4) Appurtenances.
- (5) Ancillary equipment including piping.
- (6) Leak detection method, including monthly leak detection records and maintenance checklists.
- (7) Cathodic protection system, if installed.
- (8) Coatings and protections from deterioration.
- (9) Tank system integrity and suitability for service.

#### **Subchapter H. FINANCIAL RESPONSIBILITY REQUIREMENTS FOR OWNERS AND OPERATORS OF UNDERGROUND STORAGE TANKS AND FACILITIES**

##### **§ 245.704. General requirements.**

(a) An owner or operator of an underground storage tank shall continuously participate in the USTIF, unless the EQB has determined that the underground storage tank is an exempt underground storage tank.

(b) An owner or operator of an underground storage tank shall have sufficient financial resources available to continuously meet the USTIF deductibles for both corrective action and third party liability as determined in accordance with § 245.707 (relating to coverage amounts for financial responsibility). The deductible coverage must be in a method required under section 701(b) of the act (35 P. S. § 6021.701(b)) including a guarantee, surety bond, qualification as a self-insurer, insurance or risk retention coverage, letter of credit, indemnity contract, trust fund, stand by trust fund, or other method approved or deemed satisfactory by the Department.

(c) The owner or operator shall have written documentation of the USTIF deductible coverage readily available and provide this documentation to the Department upon request to demonstrate that the owner or operator has sufficient financial resources to meet the USTIF deductible for both corrective action and third party liability as determined in accordance with § 245.707.

**§ 245.707. Coverage amounts for financial responsibility.**

The owner or operator of an underground storage tank, other than an exempt underground storage tank, shall comply with the financial responsibility requirements of this subchapter by maintaining sufficient financial resources to provide the coverage for both corrective action and third party liability, in the amounts set forth in paragraphs (1) and (2) for the applicable number of tanks:

(1) *For corrective action:*

<i>Number of tanks</i>	<i>Amount of required coverage</i>
1—6	1 × USTIF deductible
7—12	2 × USTIF deductible
13—18	3 × USTIF deductible
19—24	4 × USTIF deductible
25—30	5 × USTIF deductible
31—36	6 × USTIF deductible

<i>Number of tanks</i>	<i>Amount of required coverage</i>
37—42	7 × USTIF deductible
43—48	8 × USTIF deductible
49—60	9 × USTIF deductible
61—100	10 × USTIF deductible
101—200	11 × USTIF deductible
201—300	12 × USTIF deductible
301—600	13 × USTIF deductible
over 600	14 × USTIF deductible

(2) *For third party liability:*

<i>Number of tanks</i>	<i>Amount of required coverage</i>
1—100	1 × USTIF deductible
over 100	2 × USTIF deductible

[Pa.B. Doc. No. 07-2060. Filed for public inspection November 9, 2007, 9:00 a.m.]

# STATEMENTS OF POLICY

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

[ 52 PA. CODE CH. 69 ]

[ M-00072036/57-259 ]

### Customer Assistance Programs

The Pennsylvania Public Utility Commission (Commission) on August 30, 2007, adopted a proposed policy statement order which develops general standards to ensure the appropriate funding of universal service programs, including Customer Assistance Programs (CAPs) and resolves other types of universal service issues including CAP design elements, default provisions, timely collections and arrearage forgiveness. The contact persons are Patricia Krise Burket, Law Bureau, (717) 787-3464 and Michael Smith, BCS, (717) 705-0620.

Public Meeting held  
August 30, 2007

*Commissioners Present:* Wendell F. Holland, Chairperson; James H. Cawley, Vice Chairperson; Terrance J. Fitzpatrick; Tyrone H. Christy; Kim Pizzingrilli

*Proposed Revision to Policy Statement on Customer Assistance Programs, 52 Pa. Code §§ 69.261—69.267; Doc. No. M-00072036*

### Order and Proposed Policy Statement

*By the Commission:*

On December 18, 2006, the Commission entered its *Final Investigatory Order in Customer Assistance Programs: Funding Levels and Cost Recovery Mechanisms*, Doc. No. M-00051923 (*Final Investigatory Order*). As a result of its investigation, the Commission directed, inter alia, the retention and revision of the Policy Statement on Customer Assistance Programs at 52 Pa. Code §§ 69.261—69.267. By this order, we propose to revise the Policy Statement consistent with the directions given.

### DISCUSSION

#### Background

On December 18, 2005, the Commission entered an order requesting comments on developing general standards to ensure the appropriate funding of universal service programs, including Customer Assistance Programs (“CAPs”); to determine the type of cost recovery mechanism that best allows utilities to “fully recover” universal service costs and to resolve other types of universal service issues. The Commission also requested comments on the following CAP design elements: consumption limits, maximum energy burdens, maximum CAP benefits, default provisions, restoration provisions, timely collections for delinquent CAP accounts, minimum CAP budget bills, eligibility and income verification, arrearage forgiveness and coordination of energy assistance benefits. *Customer Assistance Programs: Funding Levels and Cost Recovery Mechanisms*, Doc. No. M-00051923.

Written comments were filed by the following interested parties: Energy Association of Pennsylvania, Office of Consumer Advocate, Department of Public Welfare, Office of Trial Staff, Dollar Energy Fund, Inc., Office of Small Business Advocate, City of Philadelphia—Mayor’s Office—

Consumer Affairs, Action Alliance of Senior Citizens of Southeastern Pennsylvania, through counsel Community Legal Services, Inc. and the Pennsylvania Utility Law Project (collectively, “Action Alliance”), Allegheny Power, Duquesne Light Company, Metropolitan Edison Company, Pennsylvania Electric Company and Pennsylvania Power Company, PECO Energy Company, PPL Electric Utilities Corporation and PPL Gas Utilities, Columbia Gas of Pennsylvania, Inc., Peoples Natural Gas Company d/b/a Dominion Peoples, Equitable Gas Company, National Fuel Gas Distribution Corporation, PG Energy, Philadelphia Gas Works, Valley Energy, Inc., Citizens’ Electric Company of Lewisburg PA, and Wellsboro Electric Company, UGI Utilities, Inc., T. W. Phillips Gas and Oil Co., Pennsylvania Association of Community Organizations for Reform Now, Energy Coordinating Agency of Philadelphia, Inc., AARP Pennsylvania, and the Industrial Energy Consumers of Pennsylvania, the Columbia Industrial Intervenors, the Met-Ed Industrial Users Group, the Penelec Industrial Customer Alliance, the Philadelphia Area Industrial Energy Users Group, the Philadelphia Industrial and Commercial Gas Users Group, the PP&L Industrial Customer Alliance, the UGI Industrial Intervenors, the West Penn Power Industrial Intervenors, and Senator LeAnna M. Washington, 4th District.

On December 18, 2006, the Commission closed its investigation and entered its *Final Investigatory Order*. In this order, the Commission directed revision of the Policy Statement on Customer Assistance Programs and the promulgation of regulations relating to CAP funding. Specifically, the Commission directed inter alia that a proceeding be initiated to amend the existing CAP Statement of Policy at 52 Pa. Code § 69.261 et seq. by incorporating the following proposals:

- (1) CAP funding decisions should include the consideration of the interests of all customers, including those not enrolled in CAP programs, and previous CAP funding decisions regarding other similar utilities;
- (2) CAP enrollment ceilings should be eliminated;
- (3) The utilities’ rights to full cost recovery should be recognized and a process should be provided where utilities may propose a surcharge to recover costs that is subject to annual reconciliation or prospective adjustment on a quarterly basis;
- (4) Existing guidelines should be modified and additional guidelines regarding CAP design elements should be established as discussed in the body of this order; and,
- (5) Section 69.265(9), dealing with Coordination of Energy Assistance Benefits should be amended consistent with the discussion in the body of this order.

*Final Investigatory Order*, p. 69.

In the *Final Investigatory Order*, the Commission recognized the continued value of the CAP policy statement as an effective blueprint for structure and operations of CAPs, but acknowledged that the design criteria guidelines needed to be updated. *Final Investigatory Order*, pp. 44. In regard to this task, the Commission instructed that:

[it may be reasonable to make some changes to the statement of policy since it has not been amended for several years. Additionally, there are areas that are important enough to be addressed in proposed regulations. However, any design criteria guidelines should be based upon the interests of both CAP participating customers and non-participating customers, and they should reflect a reasonable balance between uniformity and flexibility.

*Final Investigatory Order* at p. 44.

The Commission further instructed that:

any changes [made to the CAP policy statement] must be accomplished within the Commission's legal authority as provided for in the Competition Acts. Additionally, the Commission must be careful in establishing guidelines in order to refrain from interfering with decisions that fall under a utility's management discretion. *Pennsylvania Tel. Corp. v. Pa. PUC*, 33 A.2d 765 (Pa. Super. 1943). Finally, any changes must also be consistent with Chapter 14 of the Public Utility Code and Chapter 56 of the Commission's regulations.

*Final Investigatory Order* at p. 44.

With this prior guidance in mind, we propose to amend the CAP Policy Statement consistent with the determinations made in the *Final Investigatory Order*.

#### **Adequate CAP Funding Elimination of Enrollment Ceilings**

Section 69.264 (relating to scope of CAPs) has been revised to recognize that universal service must be adequately funded to serve all eligible customers who request the service; to eliminate enrollment ceilings in favor of a case-by-case determination of whether a company's CAP is adequately funded and to list a number of the factors that the Commission will consider in determining whether a company's CAP is adequately funded. See § 69.264.

#### **Minimum Payments**

In regard to minimum payments, the Commission indicated an unwillingness to raise the minimum monthly CAP payment to an unreasonable amount:

We decline to increase the minimum payments for low-income customers. The highest minimum payment reflects 10% of a typical public assistance grant for a household of three who receives \$403 per month from a Temporary Assistance to Needy Families [TANF] grant. Considering that an average household in Pennsylvania has an energy burden of 4.8%, it is unreasonable to expect the poorest households to pay more than 10%.

*Final Investigatory Order*, p. 59.

The Commission did indicate that the minimum CAP payment should be tied to an index to reflect changes in energy prices and committed to propose the use of such an index in the amendment of the CAP policy statement. *Final Investigatory Order*, p. 59. The policy statement has been revised at § 69.265(4)(i)(D) (relating to CAP design elements) to permit a distribution company to propose for inclusion in its tariff rules in its triennial filing annual changes to its minimum CAP payments based on a generally accepted index that reflects changes in consumer energy prices. See § 69.265.

#### **Maximum CAP Credits.**

In the *Final Investigatory Order*, the Commission proposed to examine in the amendment of the CAP policy statement the adoption of a permanent mechanism to adjust maximum CAP credits to reflect changes in prices. As an interim measure, the Commission recommended that the utilities consider increasing their maximum CAP credits to match the recommendation that was presented by PPL: \$1,800 for electric heat, \$700 for nonheat, and \$1,000 for natural gas heat. These levels track closely with the changes reflected to the Consumer Price Index since 1992. See *Final Investigatory Order* at p. 50.

To accomplish this directive, § 69.265(3)(v) has been renumbered to § 69.265(4)(v). The CAP credit limit (in dollars) for each type of account—electric-heat, nonheat and natural gas heat—have been increased to the specific dollar amounts recommended by PPL. A new subsection (D) is proposed to be added that allows for the use of an index to adjust CAP credits. For the purpose of soliciting comments, the Consumer Price Index is proposed as the index that should be used.

#### **Exemption from CAP Control Features**

The last express revision to the CAP policy statement proposed by the Commission in its *Final Investigatory Order* is an amendment that will advise the distribution company to inform customers about exemptions that may excuse a customer's violation of a CAP control feature. *Final Investigatory Order*, p. 67. CAP control features include minimum payment terms, a prohibition against subscribing to nonbasic services, and limits on consumption. These control features are listed in § 69.265 (4)(i)—(v).

Circumstances that exempt CAP participants from control features include an increase in household size, a serious illness of a household member, energy consumption outside the ability of the customer to control and energy consumption based on the energy consumption of previous occupant. These exemptions from control features are listed in § 69.265(4)(v).

#### **Eligibility Requirements**

The Commission made some initial determinations about eligibility criteria for enrollment in CAP.

We agree with the DPW that receipt of a LIHEAP [Low Income Home Energy Assistance Program] crisis grant should result in enrollment in CAP, if CAP is the most advantageous rate for a customer. Because the DPW—an agency of the Commonwealth—has already verified household income, it is not necessary for a customer to verify income again. We agree with the parties that referrals to CAP should be automatic when a customer is facing termination of service; income verification and recertification must be simplified and standardized; and that verification of income by DPW should be adequate proof of income eligibility. Utilities should follow the CAP Policy Statement provision that a utility should make referrals to CAP when a customer calls to make a payment agreement. 52 Pa. Code § 69.265(6)(i). As to income verification, receipt of a LIHEAP grant should be adequate income verification for enrollment in CAP. Also, customers with fixed incomes, i.e., Social Security, should be required to recertify eligibility at most every two years, and the receipt of LIHEAP should result in an automatic recertification.

*Final Investigatory Order*, pp. 62.

Consistent with this discussion, the Commission proposes to revise the CAP policy statement consistent with the previous discussion. See § 69.265(5), (7)(i), (ii) and (viii).<sup>1</sup>

### **Arrearage Forgiveness**

Arrearage forgiveness is the practice of forgiving a portion of a CAP customer's outstanding accounts receivable balance based on successful participation in the program. Generally, arrearage forgiveness allows for a certain portion of the customer's outstanding balance to be eliminated based on timely payments in accordance with the terms of the CAP agreement.

In the *Final Investigatory Order* at p. 64, the Commission made one specific rule regarding arrearage forgiveness, that arrearages should be forgiven monthly when CAP payments are made. All other decisions in regard to arrearage forgiveness, including costs recovery, should be proposed by the company in the triennial review proceeding. *Final Investigatory Order*, pp. 38-39. The CAP policy statement has been amended at § 69.265(10) to state that a determination on the recovery of costs related to arrearage forgiveness will be made, and that other rules governing arrearage forgiveness will be established in the distribution company's CAP tariff filing.

### **Coordination of Energy Benefits**

The *Final Investigatory Order* stated that the coordination of a CAP customer's LIHEAP cash benefits between utility accounts would be addressed on a case-by case basis:

Instead of establishing an inflexible standard in a regulation directing how LIHEAP cash benefits are to be applied, the Commission will address this issue on a case-by-case basis in the tariff filing as part of the triennial review process. As a result, Section 69.265(9) of the CAP statement of policy should be amended accordingly. Additionally, with the tariff filing as part of the triennial review process, each utility's tariff must provide for the method of application of LIHEAP cash grants.

*Final Investigatory Order*, pp. 66.

Section 69.265(9) (relating to coordination of energy assistance benefits) has been renumbered to § 69.265(11) and amended to reflect this change.

### **Income Ineligible CAP Participant and Pre-Program Arrearages**

Preprogram arrearages were discussed in the *Final Investigatory Order*.

We agree with Action Alliance comments that large preprogram balances that remain unforgiven even when a customer makes regular monthly payments can have adverse effects on customers if a customer becomes income ineligible for CAP. For that reason, the Commission will propose a solution in the revision of the CAP policy statement. We also will clarify that the current CAP Policy Statement does not require a "timely payment" criterion but requires regular monthly payments to receive arrearage forgiveness. We also agree that arrearages should be forgiven monthly when CAP payments are made.

<sup>1</sup> Eligibility requirements previously addressed at § 69.265(4) are now addressed at proposed § 69.265 (5).

*Final Investigatory Order*, pp. 63-64.

Consistent with the previous discussion, the CAP policy statement has been revised by adding new § 69.265(13)(ii)(B) to state that "regular monthly payments," that is, payments made within five days after the due date<sup>2</sup>, should not adversely affect arrearage forgiveness, to the extent that it is made available for CAP participants who have become income ineligible. We have also defined the term "regular monthly payments" in § 69.262.

### **Default Provisions**

One of the major changes proposed by the *Final Investigatory Order* was the promulgation of regulations relating to circumstances that would result in the dismissal of a customer from a CAP<sup>3</sup>. *Final Investigatory Order*, pp. 50-55. In the current policy statement, default provisions are listed at § 69.265(7) (relating to CAP design elements; default provisions).

Consistent with this direction, we propose to revise the existing policy statement by deleting the list of circumstances that should result in dismissal from CAP participation and will instead state that the failure of a customer to comply with the default provisions of the new regulation should result in dismissal from CAP participation. This section has been renumbered as § 69.265(8). 13.

### **Revisions to Existing CAPs Alternate Program Design**

This order proposes two additional revisions to the CAP policy statement necessitated by the other procedural and substantive changes made in regard to CAP proposals and programs<sup>4</sup>.

First, § 69.263 (relating to CAP development) has been revised to encourage distribution companies to seek advice regarding CAP implementation, expansion or revision from the Commission's Bureau of Consumer Services. BCS has extensive experience in the implementation of customer assistance programs and is an important resource. We have also encouraged companies to submit CAP proposals to BCS 30 days prior to the official filing date to allow adequate time for BCS to review the company's proposal and provide its advice.

The last proposed revision to the CAP policy statement relates to the revision of § 69.267 (relating to alternate design). In light of changes made to other sections of the policy statement, the section has been revised to make it clear that Commission review and approval of universal service programs that is materially different from historic CAPs is necessary prior to implementation the program's implementation.

### **CONCLUSION**

As a result of our investigation into funding levels and cost recovery for Customer Assistance Programs, we propose to amend the Policy Statement on Customer Assistance Programs at 52 Pa. Code §§ 69.261—69.267 as

<sup>2</sup> Deeming a payment made within five days of the due date as a regular monthly payment is consistent with the public policy underlying the practice that a utility may not impose a late fee when a payment is received within 5 days after the billing due date. See 52 Pa. Code § 56.21(2)(ii)(relating to payment).

<sup>3</sup> We note that we determined that failure to apply for LIHEAP should also result in dismissal from CAP participation. *Final Investigatory Order*, p. 52 f.n. 34.

<sup>4</sup> We have proposed other changes be made to the CAP policy statement for clarity and for consistency with our proposed revision of regulations at 52 Pa. Code Chapters 54 and 62. See *Notice of Proposed Rulemaking, Proposed Rulemaking Relating to Universal Service and Energy Conservation Reporting Requirements*, 52 Pa. Code §§ 54.71—54.78 (electric); §§ 62.1—62.8 (natural gas) and *Customer Assistance Programs*, §§ 76.1—76.6, Docket No. L-00070186. Also, as a result of our proposed revision of the policy statement, format changes needed to be made in other sections of the policy statement. These changes are fairly obvious and clearly marked in the Annex A.

set forth in Annex A. All interested parties are invited to submit comments on the proposal set forth in Annex A. Persons submitting comments are requested to provide supporting justification for requested revisions and proposed regulatory language.

Accordingly, pursuant to sections 501, 1501, 1504 and 2203, and Chapter 28 of the Public Utility Code, 66 Pa.C.S. §§ 501, 1504, 2203 and 2801—2812 and the Commonwealth Documents Law, 45 P.S. § 501 et seq., and regulations promulgated thereunder at 1 Pa. Code §§ 7.1—7.4, we propose to amend the CAP policy statement at 52 Pa. Code Chapter 69 as previously noted and as set forth in Annex A;

*Therefore,*

*It Is Ordered:*

1. That the proposed revisions to policy statement on Customer Assistance Programs at 52 Pa. Code §§ 69.261—69.267, as set forth in Annex A, are issued for comment.

2. That the Secretary shall submit this order and Annex A to the Governor's Budget Office for review of fiscal impact.

3. That the Secretary shall duly certify this order and Annex A and deposit them with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

4. That the Secretary shall serve a copy of this order upon all jurisdictional natural gas distribution companies, all electric distribution companies, the Energy Association of Pennsylvania, Pennsylvania Utility Law Project, the Dollar Energy Fund, the Pennsylvania Department of Public Welfare, the Office of the consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff and all other parties filing comments at Docket M-00051923.

5. That interested persons may submit an original and 15 copies of written comments referencing this docket to the Office of the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265 within 60 days from the date this order is published in the *Pennsylvania Bulletin*. In addition, one copy of the comments in electronic format (Microsoft Office Word 2003® or readable equivalent) on a portable storage unit (diskette, CD) shall be filed with the Secretary and a copy sent by electronic mail to Patricia Krise Burket, Assistant Counsel at pburket@state.pa.us, Michael Smith, Bureau of Consumer Services, michasmith@state.pa.us, and Cyndi Page, Office of Communications, at cypage@state.pa.us. Comments shall be posted on the Commission's website.

6. A copy of this order shall be posted on the Commission's website and served on the Office of Consumer Advocate and Office of Small Business Advocate.

7. The contact persons for this matter are Michael Smith, Bureau of Consumer Services, (717) 705-0620, and Patricia Krise Burket, Assistant Counsel, Law Bureau, (717) 787-3464.

*By the Commission*

JAMES J. MCNULTY,  
*Secretary*

**Fiscal Note:** 57-259. No fiscal impact; (8) recommends adoption.

## Annex A

### TITLE 52. PUBLIC UTILITIES

#### PART I. PUBLIC UTILITY COMMISSION

##### Subpart C. FIXED SERVICE UTILITIES

#### CHAPTER 69. GENERAL ORDERS, POLICY STATEMENTS AND GUIDELINES ON FIXED UTILITIES

##### POLICY STATEMENT ON CUSTOMER ASSISTANCE PROGRAMS

###### § 69.261. General.

CAPs and other universal service programs are [designed as] alternatives to traditional collection methods for low income, payment troubled customers. Customers participating in CAPs agree to make monthly payments based on household [family] size and gross income. Customers make regular monthly payments, which may be for an amount that is less than the current bill for utility service, in exchange for continued provision of the service. **This section and §§ 69.262—69.267 apply to Class A electric utilities and natural gas utilities with gross [intrastate] intraState annual operating revenue in excess of \$40 million [should adopt the guidelines in §§ 69.263—69.265 (relating to CAP development; scope of CAPs; and CAP design elements) implementing residential CAPs].**

###### § 69.262. Definitions.

The following words and terms, when used in §§ 69.261, 69.263—69.267 and this section, have the following meanings, unless the context clearly indicates otherwise[; ]:

\* \* \* \* \*

**BCS—Bureau of Consumer Services.**

**CAP—Customer Assistance Program—A plan sponsored by a distribution company for the purpose of providing universal service and energy conservation to low income customers, in which customers shall:**

(i) **Make monthly payments based on household income and household size.**

(ii) **Comply with certain responsibilities in order to remain eligible for the program.**

**CAP credits—The difference between a CAP customer's actual usage bill and the CAP monthly budget bill.**

**Distribution company—A natural gas distribution company or an electric distribution company.**

**DPW—Department of Public Welfare.**

**[EDC—Electric distribution company—The electric distribution company as defined in 66 Pa.C.S. § 2803 (relating to definitions).]**

**LIHEAP—Low Income Home Energy Assistance Program—A Federally funded program which provides financial assistance [grants to needy households for home energy bills] in the form of cash and crisis grants to low income households for home energy bills and is administered by DPW.**

**LIURP—Low Income Usage Reduction Program—A program that assists low income customers to conserve energy and reduce residential energy bills established by a distribution company**

consistent with Chapter 58 (relating to residential low income usage reduction programs).

*Low income customers*—A residential [utility] customer whose annual household gross income is at or below 150% of the Federal poverty income guidelines.

[ *Low-income* ] *Low income payment troubled customers*—[ *Low-income* ] Low income customers who have failed to maintain one or more payment arrangements in a 1 year period or who have received a termination notice.

*Preprogram CAP arrearages*—Arrearages that accumulated prior to a customer's enrollment in CAP.

*Regular monthly payment*—A monthly payment that is made within 5 days of the monthly billing due date.

§ 69.263. CAP development, expansion and revision.

(a) A [utility] distribution company should develop a CAP consistent with the guidelines provided in §§ 69.261, 69.262, 69.264—69.267 and this section.

(b) The [Bureau of Consumer Services will] distribution company is encouraged to work with [the utility] the BCS in CAP development, expansion and revision.

(c) Before implementing, revising or expanding a CAP, a [utility should submit its CAP] distribution company should provide a copy of the proposal to the [Bureau of Consumer Services] BCS for review [and Commission approval] of design elements. This review is technical in nature and not for ratemaking purposes[, and the rate consequences of any CAP will be addressed within the context of subsequent Commission rate proceedings as described in § 69.266 (relating to cost recovery)]. The distribution company is encouraged to submit a draft of the universal service plan to BCS at least 30 days prior to the official filing date. The BCS will provide to the distribution company, for its consideration, advice to improve the CAP proposal.

§ 69.264. Scope and funding of CAPs.

[CAPs should be targeted to low-income, payment troubled customers. The participation limit for CAP should reflect a needs assessment, consideration of the estimated number of low-income households in the utility's service territory, the number of participants currently enrolled in the pilot CAP, participation rates for assistance programs and the resources available to meet the needs of the targeted population.]

In a distribution company's service territory, universal service programs should be available and appropriately funded to serve the eligible population who need this service. A CAP is one type of program that provides for the successful delivery of universal service to eligible customers. CAP enrollment ceilings are eliminated in favor of a case-by-case determination of whether a distribution company's universal service program is adequately funded to meet the needs of a distribution company's low income population. In making a determination of adequate funding, the Commission will consider the following factors:

- (1) A distribution company's needs assessment.
- (2) The number of customers enrolled in CAPs compared with the number of confirmed low income customers in the company's service territory.
- (3) Demographics of the service territory.
- (4) Enrollment suspension or suppression in the last 3 years.
- (5) Enrollment recommendations from the most recent evaluation.
- (6) The interests of all customers, not those just enrolled in CAPs, in maintaining reasonable and affordable rates.
- (7) Previous Commission decisions regarding CAP funding levels of other distribution companies to the extent they are similar in size, and demographics to the distribution company whose funding level is under review.

§ 69.265. CAP design elements.

[The] A distribution company should include the following design elements [should be included] in [a] its CAP:

(1) *Program funding*. Program funding should be derived from the following sources:

\* \* \* \* \*

(iv) Universal service [funding] cost recovery mechanism for [EDCs] distribution companies.

(2) [ *Payment plan proposal*. Generally, CAP payments for total electric and natural gas home energy should not exceed 17% of the CAP participant's annual income. The minimum payment should not be less than the guidelines in paragraph (3)(v)(A) and (B). Payment plans should be based on one or a combination of the following: ] *Maximum CAP monthly budget bill*. Maximum CAP monthly budget bills should not exceed the following levels:

(i) Maximum CAP monthly budget bills for electric nonheating service should not exceed 4% of a household's monthly gross annual income.

(ii) Maximum CAP monthly budget bills for natural gas heating should not exceed 6% of a household's gross annual income.

(iii) Maximum CAP monthly budget bills for electric heating accounts or gas heating and electric nonheating accounts combined should not exceed 10% of a household's gross annual income.

(iv) When determining a CAP monthly budget bill, a distribution company should deduct 20% from all earned income to compensate for taxes, other mandatory deductions from salary, and work expenses. This deduction does not need to apply to income eligibility.

(v) The Commission may adjust a CAP monthly budget bill to be consistent with this section.

(3) *CAP Budget Payment Plan*. CAP budget payment plans should be based on one or more of the following:

(i) *Percentage of income plan*. Total payment for total electric and natural gas home energy under a percentage of income plan is determined based upon a scheduled percentage of the participant's annual gross income. The participating household's gross income and family size

place the family at a particular poverty level based on Federal poverty income guidelines.

[ (A) Generally, maximum payments for electric nonheating service should be within the following ranges:

(I) Household income between 0—50% of poverty at 2%—5% of income.

(II) Household income between 51—100% of poverty at 4%—6% of income.

(III) Household income between 101—150% of poverty at 6%—7% of income.

(B) Generally, maximum payments for gas heating should be within the following ranges:

(I) Household income between 0—50% of poverty at 5%—8% of income.

(II) Household income between 51—100% of poverty at 7%—10% of income.

(III) Household income between 101—150% of poverty at 9%—10% of income.

(C) Generally, maximum payments for electric heating or gas heating and electric nonheating combined should not exceed the following guidelines:

(I) Household income between 0—50% of poverty at 7%—13% of income.

(II) Household income between 51—100% of poverty at 11%—16% of income.

(III) Household income between 101—150% of poverty at 15%—17% of income. ]

(ii) *Percentage of bill plan.* The participant's household payment contribution for total electric and natural gas home energy under a percentage of bill plan is determined using variables based on family size and income and the household's energy usage level. [ A participant's annual payment is calculated as a percentage of income payment and converted to a percentage of the annual bill. When a utility determines subsequent CAP payment amounts, a participant will continue to pay the same percentage of the total bill even if annual usage has changed. ]

(iii) *Rate discount.* The participant's energy usage is billed at a reduced rate.

(iv) *Minimum monthly payment.* The participant's monthly payment contribution is calculated by taking the participant's estimated monthly budget billing amount and subtracting the maximum, monthly CAP credit [ (previously called billing deficiency) ].

(v) *Annualized, average payment.* The participant's CAP payment contribution is calculated by determining the total amount the participant paid over the last 12 months and dividing by 12 months to determine a CAP monthly budget bill.

(vi) [ *An alternative* ] *Alternative payment formula.* An alternative payment formula [ must be reviewed by the Bureau of Consumer Services and approved by the Commission. ] may be proposed for Commission review and approval in the distribution company's tariff filing as part of the triennial review process as set forth at §§ 54.74 and 62.4.

[ (3) ] (4) *Control features.* The [ utility ] distribution company should include the following control features to limit program costs:

(i) *Minimum payment terms.*

\* \* \* \* \*

(D) A distribution company may propose in its triennial filing annual changes to its minimum CAP payments based on a generally accepted index that reflects changes in consumer energy prices.

\* \* \* \* \*

(iii) *Consumption limits.* Limits on consumption should be set at a percentage of a participant's historical average usage. A level of [ 110% ] 125% is recommended. Adjustments in consumption limits should be made for extreme weather conditions through the use of weather normalization techniques.

(A) A CAP customer may be required to pay for the full cost of the energy used in excess of consumption limits unless an increase in consumption is due to factors listed in subparagraph (vi).

(B) When a CAP customer cannot afford the full cost of the energy used in excess of consumption limits, the customer may be required to bring consumption back to an acceptable level, within a reasonable time, unless an increase in consumption is due to factors listed in subparagraph (vi).

(C) When a CAP customer cannot pay for the energy used in excess of consumption limit and will not attempt to control household consumption and will not allow the distribution company to provide weatherization services, the distribution company should remove the customer from the CAP unless an increase in consumption is due to the factors listed in subparagraph (vi).

(iv) [ *High usage treatment.* Utilities should target for special treatment those participants who historically use high amounts of energy. ] *Treatment of high usage customers.* A distribution company should prioritize LIURP services and referrals to other services that help reduce usage for CAP customers who exceed a consumption limit established for the customer's household as defined by section subparagraph (iii).

(v) *Maximum CAP credits.* [ The annual maximum CAP credits should not exceed a total of \$1,400 per participant. ]

(A) The annual maximum CAP credits per natural gas heating [ participant ] customer should not exceed [ \$840 ] \$1,000.

(B) The annual maximum CAP credits per electric nonheating customer should not exceed [ \$560 ] \$700.

(C) The annual maximum CAP credits per electric heating [ participant ] customer should not exceed [ \$1,400 ] \$1,800.

(D) The total maximum CAP credits per customer account should be adjusted annually using the Consumer Price Index inflation calculator.

(vi) *Exemptions.* A [ utility may ] distribution company should inform a customer of the exemptions from CAP control features upon enrollment, certification and prior to termination of service. A distri-



bution company should exempt a [ household ] CAP customer from a CAP control feature if one or more of the following conditions exist:

(A) The household experienced [ the addition of a family member ] an increase in household size.

\* \* \* \* \*

(D) [ The household is located in housing that is or has been condemned or has housing code violations that negatively affect energy consumption.

(E) ] Energy consumption estimates have been based on consumption of a previous occupant.

[ (4) ] (5) *Eligibility criteria.* The CAP applicant should meet the following criteria for eligibility:

(i) [ Status as a utility ratepayer or new applicant for service is verified.

(ii) ] Household income is verified at or below 150% of the Federal poverty income guidelines.

[ (iii) The applicant is a low income, payment troubled customer. When determining if a CAP applicant is payment troubled, a utility should select one of the following four options to prioritize the enrollment of eligible, payment troubled customers:

(A) A household whose housing and utility costs exceed 45% of the household's total income. Housing and utility costs are defined as rent or mortgage/taxes and gas, electric, water, oil, telephone and sewage.

(B) A household who has \$100 or less disposable income after subtracting all household expenses from all household income.

(C) A household who has an arrearage. The utility may define the amount of the arrearage.

(D) A household who has received a termination notice or who has failed to maintain one payment arrangement. ]

(ii) The CAP applicant is payment troubled.

(iii) The CAP monthly budget bill amount is the most advantageous rate.

(iv) A customer who has received a LIHEAP crisis grant shall be automatically enrolled in a CAP when the CAP monthly budget bill amount is the most advantageous rate.

(v) A household that is income-eligible, but has a commercial, professional or farming use associated with the household residence is ineligible for CAP.

[ (5) ] (6) *Appeal process.* [ The utility ] A distribution company should establish the following appeal process for [ program denial ] CAP applicants and CAP customers:

(i) [ If the ] When a CAP applicant is not satisfied with the [ utility's initial eligibility determination, the utility should use utility company ] distribution company's application of its CAP program rules, the distribution company should comply with the dispute procedures in §§ 56.151 and 56.152 (relating to general rule; and contents of the utility company report).

(ii) [ The ] A CAP applicant or customer may appeal [ the denial of eligibility to the Bureau of Consumer Services ] a distribution company's application of its CAP program rules to the Commission in accordance with §§ 56.161—56.165 (relating to informal complaint procedures).

(iii) The distribution company should include a written copy of the appeal process in the CAP literature provided to the CAP customer upon program enrollment.

[ (6) ] (7) *Administration.* [ If ] When feasible, the [ utility ] distribution company should include non-profit community based organizations in the [ operation ] administration of the CAP. The [ utility ] distribution company should incorporate the following components into the CAP administration:

(i) *Outreach.* [ Outreach may be conducted by non-profit, community-based organizations and should be targeted to low income payment troubled customers. The utility should make automatic ] A distribution company should make referrals to a CAP when a [ low-income ] low income customer calls to make a payment [ arrangements ] arrangement, fails a credit screening test or contacts the distribution company about a billing dispute, about required contacts and notices for service termination and about restoration of service. A distribution company should not terminate service to a low income customer without first making a referral to a CAP.

(ii) [ *Intake and verification.* Income verification may be completed through a certification process that is satisfactory to the utility or certification through a government agency. Intake may also be conducted by those organizations and should include verification of the following:

(A) Identification of the CAP applicant.

(B) The annual household income.

(C) The family size.

(D) The ratepayer status.

(E) The class of service-heating or nonheating. ] *Verification of income.* A distribution company should verify total household income and household size through one of the following methods:

(A) Receipt of LIHEAP or other government program that sets eligibility at no more than 150% of the Federal poverty guidelines. Receipt of LIHEAP should automatically satisfy the income requirements of this section without requiring additional income information from a CAP applicant.

(B) Personal certification at a community agency or distribution company site.

(C) Self-certification by mail when a customer provides household income and size and attests that the information is true and correct.

\* \* \* \* \*

(iv) *Explanation of CAP.* [ A complete and thorough explanation of the CAP components should be provided to participants. ] A distribution company or its representative should provide a complete and thorough explanation of the CAP components to participants. The explanation should include infor-

mation on benefits and responsibilities of CAP participation and the importance of energy conservation. Referrals to other appropriate support services should be part of consumer education.

(v) *Application for LIHEAP grants.* An application for LIHEAP grants, to the extent that [is] grants are available, should be completed during the intake interview.

\* \* \* \* \*

(viii) [ *Annual reapplication.* An annual process that reestablishes a participant's eligibility for CAP benefits should be required.

(ix) *Arrearage forgiveness.* Arrearage forgiveness should occur over a 2- to 3-year period contingent upon receipt of regular monthly payments by the CAP participant.

(x) *Routine management program progress reports.* Progress reports that may be used to monitor CAP administration should be prepared at regular intervals. These reports should include basic information related to the number of participants, payments and account status. ]

*Recertification.* A distribution company should establish a customer's continued eligibility for CAP benefits using one or more of the following methods:

(A) Unless special circumstances exist, a distribution company should automatically recertify a customer upon receipt of a LIHEAP grant.

(B) A distribution company should recertify a customer for up to 2 years when a household receives its sole source of income from Social Security or Supplemental Security Income.

(C) Instead of recertifying each CAP customer, a distribution company might survey for continued income eligibility a random sample of non-LIHEAP CAP customers. When the random survey shows that incomes of at least 90% of the CAP customers remained eligible, the distribution company should continue to recertify through sampling.

(D) When a distribution company cannot annually recertify a customer's eligibility using the methods listed in this section, the distribution company may require eligibility verification through written or personal contact.

[ (7) ] (8) *Default provisions.* The failure of a [ participant ] customer to comply with [ one of the following should ] the default provisions of which will be codified in § 76.5 when finally adopted by the Commission must result in dismissal from CAP participation[ :

(i) Failure to make payments will result in the utility returning the participant to the regular collection cycle and may lead to termination of service. By returning the customer to the regular collection cycle, the utility does not need to enter into a new payment arrangement but may begin the termination process. At a minimum, the utility should inform the participant of the consequences of defaulting from the CAP. To avoid termination of service, the CAP participant must pay the amount set forth in the termination notice prior to the

scheduled termination date. This amount should generally be no more than two CAP bills.

(ii) Failure to abide by established consumption limits.

(iii) Failure to allow access or to provide customer meter readings in 4 consecutive months.

(iv) Failure to report changes in income or family size.

(v) Failure to accept budget counseling, weatherization/usage reduction or consumer education services.

(vi) Failure to annually verify eligibility ].

[ (8) ] (9) *Reinstatement policy.* [ A customer may be reinstated into CAP at the utility's discretion. ] A distribution company should reinstate a customer into a CAP when the customer who was defaulted from the CAP for failing to follow CAP rules and has not had his utility service terminated corrects the reasons for being removed from the program. When utility service to a CAP customer has been terminated and subsequently restored in accordance with applicable provisions of 66 Pa.C.S. Chapter 14 (relating to responsible utility customer protection), a distribution company should reenroll the customer in a CAP, with all CAP benefits to resume. A distribution company should require that a customer verify household size and income if the customer has not been an active CAP participant within the prior 6 month period.

(10) *Arrearage forgiveness.* Arrearages should be forgiven monthly when CAP regular monthly payments are made. Determinations on recovery of costs related to arrearage forgiveness will be made, and other rules governing arrearage forgiveness will be established on an individual basis in the distribution company's tariff filing as part of the triennial review process as set forth in §§ 54.74 and 62.4 (relating to universal service; and energy conservation plans).

[ (9) ] (11) *Coordination of energy assistance benefits.* [ In a CAP, the utility should include the following to coordinate a participant's energy assistance benefits between it and other utilities:

(i) A LIHEAP grant should be designated by the participant to the utility sponsoring the CAP.

(ii) A LIHEAP or other energy assistance grant may not be substituted for a participant's monthly payment. If the utility determines that a participant's minimum payment exceeds 17% of the household's income, additional energy assistance grants may be used to reduce the amount of the participant's monthly payment. The participant is still responsible for making the remainder of the regular monthly payment.

(iii) The LIHEAP grant should be applied to reduce the amount of CAP credits.

(iv) A utility may impose a penalty on a CAP participant who is eligible for LIHEAP benefits but who fails to apply for those benefits. A utility should use this option carefully and the penalty should not exceed the amount of an average LIHEAP cash benefit. If a customer applies for a LIHEAP benefit but directs it to another utility or energy provider, the CAP provider should not as-

sess a penalty]. The application of LIHEAP cash benefits to a CAP customer's account will be determined in the distribution company's tariff filing as part of the triennial review process as set forth in § 54.74 or § 62.4

(12) *Treatment of CAP customers who become income ineligible.*

(i) A distribution company should provide limited CAP benefits to a CAP customer who becomes income ineligible when:

(A) Income does not exceed 250% of the Federal poverty guidelines.

(B) A CAP account is current at the time that a customer is determined to be income ineligible for a CAP.

(ii) Limited CAP benefits should include the following:

(A) Continued enrollment in a CAP for no more than 3 months with the CAP monthly budget bill increasing by one-third each month until the actual CAP monthly budget bill amount is reached in the third month.

(B) Arrearage forgiveness benefits, to the extent provided under a CAP's rules, as long as the customer makes regular monthly payments until the CAP preprogram arrearage is retired.

(13) *Routine management program progress reports.* In addition to the data required in §§ 54.75 and 62.5 (relating annual residential collection and universal service; and energy conservation program reporting requirements), the Commission may require a distribution company to submit progress reports that include basic information related to the number of CAP participants, payments and account status.

[(10)] (14) *Evaluation.* The [utility] distribution company should thoroughly and objectively evaluate its CAP in accordance with the following, unless otherwise modified in §§ 54.76 and 62.6 (relating to evaluation reporting requirements).

\* \* \* \* \*

(iii) *Evaluation plan [approval].* The utility should [submit the impact evaluation plan to the Bureau of Consumer Services for review and approval] confer with BCS before selecting an independent third party to conduct an impact evaluation of its universal service and energy conservation programs.

§ 69.266. Cost recovery.

[In evaluating utility CAPs for ratemaking purposes, the Commission will consider both revenue and expense impacts. Revenue impact considerations include a comparison between the amount of revenue collected from CAP participants prior to and during their enrollment in the CAP. CAP expense impacts include both the expenses associated with operating the CAPs as well as the potential decrease of customary utility operating expenses. Operating expenses include the return requirement on cash working capital for carrying arrearages, the cost of credit and collection activities for dealing with low income negative ability to pay customers and uncollectible accounts expense for writing off bad debt for these customers. When making CAP-related expense adjustments and projections, utilities should indicate whether a customer's participation in a CAP produced an immediate reduction in customary utility expenses and a reduction in future customary expenses pertaining to that account.] A distribution company is permitted to fully recover costs of providing universal service to its eligible customers. Issues related to recovery of universal service costs will be addressed on a case-by-case basis in the distribution company's tariff filing as part of the triennial review process as set forth in applicable regulations in §§ 54.74 and 62.4 (relating to universal service and energy conservation plans) and Chapter 76 (which will be proposed by the Commission).

§ 69.267. Alternative program designs.

Alternative universal service program designs that differ from §§ 69.261—69.266 and this section may reduce uncollectible balances and may provide low income, payment troubled customers with needed assistance. [These programs may be acceptable if the utility can provide support for design deviations.] Before implementing an alternative universal service program design, the utility should submit its proposal including an evaluation plan as described in § 69.265[(10)](14) (relating to CAP design elements) to the [Bureau of Consumer Services for review and] Commission for approval. The alternative program design is submitted as a tariff filing and should contain the rules for the program, provide for program funding and cost recovery and should comply with Commission regulations and orders that are applicable to CAPs.

[Pa.B. Doc. No. 07-2061. Filed for public inspection November 9, 2007, 9:00 a.m.]

# NOTICES

## DEPARTMENT OF AGRICULTURE

### Order of Quarantine; Revocation of Plum Pox Virus Quarantine in the Borough of Mount Holly Springs, Cumberland County

#### *Recitals*

A. The Plant Pest Act (act) (3 P. S. §§ 258.1—258.27) empowers the Department of Agriculture (Department) to take various measures to detect, contain and eradicate plant pests in this Commonwealth.

B. The powers granted to the Department under section 21 of the act (3 P. S. § 258.21) include the power to establish quarantines to prevent the dissemination of plant pests within this Commonwealth.

C. Plum Pox Virus (PPV) is a serious plant pest, indigenous to Europe, that injures and damages stone fruits such as peaches, nectarines, plums and apricots by drastically reducing the fruit yields from these stone fruit trees and by disfiguring the fruit to the point that it is unmarketable.

D. As a result of the presence of PPV in several townships and boroughs, the Department has issued a series of quarantine orders establishing and adjusting a quarantine area.

E. PPV has the potential to cause serious damage to the stone fruit production industry within this Commonwealth.

F. PPV is transmitted from infected trees by aphids and by budding or grafting and can be spread into new areas by movement of infected nursery stock.

G. The movement of PPV-infected fruit trees poses a danger to stone fruit trees in noninfected areas.

H. There is no known control for PPV other than destruction of infected trees.

I. The Department conducts extensive testing of stone fruit trees in all of the quarantined areas to search for the presence of PPV. Where this testing has gone on for at least 3 years in a particular quarantined area without detecting the presence of PPV among stone fruit trees in that area, the Department is satisfied it is appropriate to rescind the PPV-related quarantine of that area.

#### *Order*

Under authority of section 21 of the act the Department hereby orders the following:

1. The Order of Quarantine dated October 31, 2000 (published at 30 Pa.B. 5852 (November 11, 2000)), imposing a quarantine on the Borough of Mt. Holly Springs, in Cumberland County, is hereby rescinded.

2. This Order is issued in response to the fact that 3-consecutive years of intensive sampling and testing stone fruit leaves in the Borough of Mt. Holly Springs, Cumberland County, have not yielded any additional positive detections of PPV. The Borough of Mt. Holly Springs is no longer considered a potential reservoir of the PPV virus, and is considered free of PPV.

3. The Department will continue to consult with the United States Department of Agriculture, European experts and scientific authorities with respect to the most efficacious measures by which to contain and eliminate PPV, and may, if warranted, reconsider the need for quarantine restrictions.

4. This Order is effective as of October 24, 2007.

DENNIS C WOLFF,  
*Secretary*

[Pa.B. Doc. No. 07-2062. Filed for public inspection November 9, 2007, 9:00 a.m.]

## DEPARTMENT OF BANKING

### Actions on Applications

The Department of Banking (Department), under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 9, 2002 (P. L. 1572, No. 207), known as the Credit Union Code, has taken the following action on applications received for the week ending October 30, 2007.

### BANKING INSTITUTIONS

#### Charter Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-25-07	Federated Investors Trust Company of PA Pittsburgh Allegheny County	Federated Investors Tower 1001 Liberty Avenue Pittsburgh Allegheny County	Commenced Operations

## NOTICES

## Conversions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-25-07	Quakertown National Bank Quakertown Bucks County <i>To:</i> QNB Bank Quakertown Bucks County	Quakertown	Filed
Application for conversion from a Federally-chartered bank to a Pennsylvania State-chartered bank.			

## Section 112 Applications

<i>Date</i>	<i>Name of Individual</i>	<i>Location</i>	<i>Action</i>
10-22-07	Steven D. Hovde to acquire up to 13.4% of the common shares of Bucks County Bank, Doylestown.	Barrington, IL	Filed

## Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-23-07	Fulton Bank, Lancaster, PA, and Resource Bank, Virginia Beach, VA Surviving Institution— Fulton Bank, Lancaster, PA	Lancaster	Filed
10-25-07	Federated Investors Trust Company of PA, Pittsburgh, PA, and Federated Investors Trust Company, Sicklerville, NJ Surviving Institution— Federated Investors Trust Company of PA, Pittsburgh, PA, with change in corporate name to "Federated Investors Trust Company"	Pittsburgh	Effective
Merger completes the conversion from a New Jersey State-chartered institution to a Pennsylvania State-chartered trust company.			

## Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-19-07	Northwest Savings Bank Warren Warren County	8221 Peters Road Plantation Broward County, FL	Authorization Surrendered

## Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-1-07	Stonebridge Bank Exton Chester County	1212 Churchville Road Bel Air Harford County, MD	Closed

## SAVINGS INSTITUTIONS

No activity.

## CREDIT UNIONS

No activity.

The Department's website at [www.banking.state.pa.us](http://www.banking.state.pa.us) includes public notices for more recently filed applications.STEVEN KAPLAN,  
*Secretary*

[Pa.B. Doc. No. 07-2063. Filed for public inspection November 9, 2007, 9:00 a.m.]

# DEPARTMENT OF ENVIRONMENTAL PROTECTION

## Applications, Actions and Special Notices

### APPLICATIONS

#### THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT APPLICATIONS FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

This notice provides information about persons who have applied for a new, amended or renewed NPDES or WQM permit, a permit waiver for certain stormwater discharges or submitted a Notice of Intent (NOI) for coverage under a general permit. The applications concern, but are not limited to, discharges related to industrial, animal or sewage waste, discharges to groundwater, discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities or concentrated animal feeding operations (CAFOs). This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or amendment
Section III	WQM	Industrial, sewage or animal waste; discharge into groundwater
Section IV	NPDES	MS4 individual permit
Section V	NPDES	MS4 permit waiver
Section VI	NPDES	Individual permit stormwater construction
Section VII	NPDES	NOI for coverage under NPDES general permits

For NPDES renewal applications in Section I, the Department of Environmental Protection (Department) has made a tentative determination to reissue these permits for 5 years subject to effluent limitations and monitoring and reporting requirements in their current permits, with appropriate and necessary updated requirements to reflect new and changed regulations and other requirements.

For applications for new NPDES permits and renewal applications with major changes in Section II, as well as applications for MS4 individual permits and individual stormwater construction permits in Sections IV and VI, the Department, based upon preliminary reviews, has made a tentative determination of proposed effluent limitations and other terms and conditions for the permit applications. These determinations are published as proposed actions for comments prior to taking final actions.

Unless indicated otherwise, the EPA Region III Administrator has waived the right to review or object to proposed NPDES permit actions under the waiver provision in 40 CFR 123.24(d).

Persons wishing to comment on an NPDES application are invited to submit a statement to the regional office noted before an application within 30 days from the date of this public notice. Persons wishing to comment on a WQM permit application are invited to submit a statement to the regional office noted before the application within 15 days from the date of this public notice. Comments received within the respective comment periods will be considered in the final determinations regarding the applications. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests for a public hearing on applications. A public hearing may be held if the responsible office considers the public response significant. If a hearing is scheduled, a notice of the hearing will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. The Department will postpone its final determination until after a public hearing is held.

Persons with a disability who require an auxiliary aid, service, including TDD users, or other accommodations to seek additional information should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

#### I. NPDES Renewal Applications

*Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0061603	Eagle Lake Community Association P. O. Box 305 Gouldsboro, PA 18444-0305	Covington Township Lackawanna County	UNT to Tamarack Creek 2A	Y
PA0070203	Craftex Mills, Inc. 2100 Market Street Auburn, PA 17922	Schuylkill County West Brunswick Township	Pine Creek 3A	Y

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0010987	Tobyhanna Army Depot 11 Hap Arnold Boulevard AMSEL-TY-RK-E Tobyhanna, PA 18466-5086	Coolbaugh Township Monroe County	Hummeler Run 2A	Y
PA0060097	Pennsylvania American Water 100 North Pennsylvania Avenue Wilkes-Barre, PA 18701	Monroe County Coolbaugh Township	East Branch Dresser Run 2A	Y

*Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.*

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0087734 (IW)	Marietta Gravity Water Company 1195 River Road Box 302 Marietta, PA 17547	York County Hellam Township	Dugan Run 7-I	Y
PA0082228 (SEW)	Herbert L. Hess Hilltop Acres MHP 1546 Newport Road Manheim, PA 17545	Lancaster County Rapho Township	Chickies Creek 7-G	Y

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0033782 (Sewage)	Timberland Estates, Inc. 548 Rueben Keher Road Lot 100A Muncy, PA 17756	Fairfield Township Lycoming County	UNT to Twin Run WWF	Y

*Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0103713	Scrubgrass Generating Company, LP 2151 Libson Road Kennerdell, PA 16374	Scrubgrass Township Venango County	Allegheny River (Outfall 001) Falling Spring Run (Outfall 002) UNT to the Allegheny River (Outfall 003) 16-G	Y
PA0034380	Quadland Corporation 7041 Truck World Boulevard Hubbard, OH 44425	Scrubgrass Township Venango County	UNT to the Allegheny River 16-G	Y

## **II. Applications for New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Applications**

*Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.*

**PA0050458**, Sewage, SIC 4952, **Little Washington Wastewater Company**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010-3489. This existing facility is located in East Brandywine Township, **Chester County**.

Description of Proposed Activity: Renewal of NPDES permit to discharge treated sewage effluent from the Culbertson Run WWTP.

The receiving stream, Culbertson Run, is in the State Water Plan Watershed 3H and is classified for: HQ-TSF, MF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for Downingtown Borough Municipal Water Authority is located on East Branch Brandywine Creek and is approximately 6 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0531 mgd.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		<i>Instantaneous Maximum (mg/l)</i>
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	
CBOD <sub>5</sub>					
(5-1 to 10-31)	4.4		10		20
(11-1 to 4-30)	8.8		20		40
Total Suspended Solids	8.8		20		40
NH <sub>3</sub> -N					
(5-1 to 10-31)	1.3		3.0		6.0
(11-1 to 4-30)	4.0		9.0		18.0
Phosphorus as P					
(4-1 to 10-31)	0.4		1.0		2.0
Fecal Coliform (Col/100 ml)			200		1,000
Dissolved Oxygen			5.0, I-minimum		
pH (Standard Units)			6.0, I-minimum		9.0
Total Residual Chlorine			0.2		0.4

In addition to the effluent limits, the permit contains the following major special conditions:

1. Notification of Designation of Responsible Operator.
2. Abandon STP when Public Sewers Become Available.
3. Remedial Measures if Public Nuisance.
4. No Stormwater to Sewers.
5. Necessary Property Rights.
6. Small Stream Discharge.
7. Change in Ownership.
8. Proper Sludge Disposal.
9. Chlorine Minimization.
10. Twice per Month Sampling.
11. Maximize Subsurface Disposal System.
12. Instantaneous Maximum Limits.
13. Fecal Coliform Reporting.
14. Operator Training.
15. Operations and Maintenance Plan.
16. Laboratory Certification.

The EPA waiver is not in effect.

---

*Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**PA-0060186**, Sewage, **Elk Meadows Homeowners Association**, P. O. Box 248, Uniondale, PA 18470. This proposed facility is located in Herrick Township, **Susquehanna County**.

Description of Proposed Activity: Renewal of NPDES Permit.

The receiving stream, UNT of Tunkhannock Creek, is in the State Water Plan Watershed 4F and is classified for: CWF. The nearest downstream public water supply intake for Danville Water Authority is located on Susquehanna River is 100 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.023 mgd.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25		50
Total Suspended Solids	30		60
NH <sub>3</sub> -N			
(5-1 to 10-31)	4		8
(11-1 to 4-30)	12		24
Dissolved Oxygen	A minimum of 5.0 mg/l at all times.		
Fecal Coliform			
(5-1 to 9-30)	200/100 ml as a Geometric Mean		
(10-1 to 4-30)	2,000/100 ml as a Geometric Mean		
pH	6.0 to 9.0 Standard Units at all times.		
Total Residual Chlorine	0.3		0.7
Ammonia Nitrogen	Monitor and Report		
Kjeldahl Nitrogen	Monitor and Report		
Nitrite-Nitrate as N	Monitor and Report		
Total Nitrogen	Monitor and Report		
Total Phosphorus	Monitor and Report		



In addition to the effluent limits, the permit contains the following major special conditions:

1. Chesapeake Bay Nutrient Requirements.

**PA-0065200**, Sewage, **Omega Homes, Inc.**, 1150 South Cedar Crest Boulevard, Allentown, PA 18103-7909. This proposed facility is located in West Penn Township, **Schuylkill County**.

Description of Proposed Activity: Issuance of a new NPDES Permit.

The receiving stream, Mahoning Creek, is in the State Water Plan Watershed 2B and is classified for: CWF. The nearest downstream public water supply intake for Northampton Borough Water Authority is located on Lehigh River 30 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.09 mgd.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Daily Maximum (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25		50
Total Suspended Solids	30		60
NH <sub>3</sub> -N (5-1 to 10-31)	9.8		19.6
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)	200/100 ml as a Geometric Mean 2,000/100 ml as a Geometric Mean		
pH	6.0 to 9.0 Standard Units at all times.		
Total Residual Chlorine	0.7		1.7

**PA0026042**, Sewage, **City of Bethlehem**, 10 East Church Street, Bethlehem, PA 18018. This proposed facility is located in City of Bethlehem, **Northampton County**.

Description of Proposed Activity: Renewal of NPDES permit to discharge treated sewage.

The receiving streams, Lehigh River and Saucon Creek, are in the State Water Plan Watershed 2C and are classified for: WWF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for Keystone Water Supply is located on the Delaware River approximately 40 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 20 mgd.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	40	50
Total Suspended Solids	30	45	60
NH <sub>3</sub> -N (6-1 to 10-31) (11-1 to 5-31)	5.0 15		10 30
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)	200/100 ml as a Geometric Mean 2,000/100 ml as a Geometric Mean		
pH	6.0 to 9.0 Standard Units at all times.		
Total Residual Chlorine	0.5		1.3

The proposed effluent for Outfall 006 which is plant emergency discharge:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	40	50
Total Suspended Solids	30	45	60
NH <sub>3</sub> -N (6-1 to 10-31) (11-1 to 5-31)	5.0 15		10 30
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)	200/100 ml as a Geometric Mean 2,000/100 ml as a Geometric Mean		
pH	6.0 to 9.0 Standard Units at all times.		
Total Residual Chlorine	0.5		1.3

The proposed effluent for Outfalls 003 and 004, which are plant overflows, are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>		Monitor and Report
Total Suspended Solids		Monitor and Report
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)		Monitor and Report Monitor and Report
pH		Monitor and Report

Sampling shall take place on an hourly basis at each outfall location for the duration of the discharge. Uncontaminated stormwater outfall SW-001—SW-005 required Annual Inspection in lieu of monitor and report for CBOD<sub>5</sub>, COD, Oil and Grease, pH, TSS, TKN, Total Phosphorus and Iron Dissolved.

*Other Requirements:* Pretreatment condition, combined sewer overflows condition, Whole Effluent Toxicity Test Condition, stormwater condition.

The EPA waiver is not in effect.

*Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.*

**Application No. PA 0026972**, Sewage, **Exeter Township, Berks County Authority**, 4975 DeMoss Road, Reading, PA 19606. This facility is located in Exeter Township, **Berks County**.

Description of activity: The application is for renewal of an NPDES permit for an existing discharge of treated sewage.

The receiving stream, Schuylkill River, is in Watershed 3-D, and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Borough of Pottstown Water and Sewer Authority is located on the Schuylkill River, approximately 8 miles downstream. The discharge is not expected to affect the water supply.

The proposed Interim effluent limits for Outfall 001 for a design flow of 1.2 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	40	50
Total Suspended Solids	30	45	60
NH <sub>3</sub> -N	Monitor and Report		
Total Copper	0.057		0.114
Total Residual Chlorine	0.4		0.9
Dissolved Oxygen	Minimum of 5.0 at all times		
pH	From 6.0 to 9.0 inclusive		
Fecal Coliform			
(5-1 to 9-30)	200/100 ml as a Geometric Average		
(10-1 to 4-30)	10,000/100 ml as a Geometric Average		

The proposed Final effluent limits for Outfall 001 for a design flow of 1.2 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	40	50
Total Suspended Solids	30	45	60
NH <sub>3</sub> -N	20		40
Total Copper	0.057		0.114
Total Residual Chlorine	0.4		0.9
Dissolved Oxygen	Minimum of 5.0 at all times		
pH	From 6.0 to 9.0 inclusive		
Fecal Coliform			
(5-1 to 9-30)	200/100 ml as a Geometric Average		
(10-1 to 4-30)	2,000/100 ml as a Geometric Average		

The proposed Interim effluent limits for Outfall 002 for a design flow of 5.9 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	40	50
Total Suspended Solids	30	45	60
Total Copper	0.057		0.114
Total Residual Chlorine	0.4		0.9
Dissolved Oxygen	Minimum of 5.0 at all times		
pH	From 6.0 to 9.0 inclusive		
Fecal Coliform			
(5-1 to 9-30)	200/100 ml as a Geometric Average		
(10-1 to 4-30)	10,000/100 ml as a Geometric Average		

The proposed Final effluent limits for Outfall 002 for a design flow of 5.9 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	40	50
Total Suspended Solids	30	45	60
NH <sub>3</sub> -N	20		40
Total Copper	0.057		0.114
Total Residual Chlorine	0.4		0.9

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Dissolved Oxygen		Minimum of 5.0 at all times	
pH		From 6.0 to 9.0 inclusive	
Fecal Coliform			
(5-1 to 9-30)		200/100 ml as a Geometric Average	
(10-1 to 4-30)		2,000/100 ml as a Geometric Average	

Persons may make an appointment to review the Department of Environmental Protection's files on this case by calling the file review coordinator at (717) 705-4732.

The EPA waiver is not in effect.

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701 (570) 327-3664.*

**PA0229211**, Industrial Waste, SIC 2899, **Bionol Clearfield, LLC**, 99 Longwater Circle, Norwell, MA 02061. This proposed facility is located in Clearfield Borough, **Clearfield County**.

Description of Proposed Activity: This proposed action is for issuance of an NPDES permit for an existing discharge of treated industrial wastewater.

The receiving stream, West Branch Susquehanna River, is in the State Water Plan Watershed 8B and classified for: WWF. The nearest downstream public water supply intake for Reliant Energy is located on West Branch Susquehanna River is 10 miles below the point of discharge.

The proposed effluent limits for Outfall 101 based on a design flow of 0.082 mgd.

Parameter	Mass Units (lbs/day)		Minimum	Concentration (mg/l)		
	Average Monthly	Maximum Daily		Average Monthly	Daily Maximum	Instantaneous Maximum
pH			6.0			9.0
TSS				30	60	
Total Iron				2.0	4.0	
Total Aluminum				4.0	8.0	
Total Manganese				1.0	2.0	
Total Residual Chlorine				0.5		

The proposed effluent limits for Outfall 102 based on a design flow of 0.125 mgd.

pH	6.0	9.0
Total Residual Halogen	0.2	0.5
Temperature	Report	Report

The proposed effluent limits for Outfalls 002—004 based on a design flow of N/A mgd.

pH	Report
COD 1	Report
CBOD <sub>5</sub>	Report
TSS	Report
Total Recoverable	Report
Petroleum Hydrocarbons	
Ammonia-N	Report
Total Phosphorus	Report

*Southwest Regional Office: Regional Manager, Water Management, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.*

**PA0004057**, Industrial Waste, SIC 3011, **Specialty Tires of America, Inc.**, 1600 Washington Street, Indiana, PA 15701. This application is for renewal of an NPDES permit to discharge stormwater from a tire manufacturing facility in Indiana Borough, **Indiana County**.

The following effluent limitations are proposed for discharge to the receiving waters, UNT of Whites Run, classified as a CWF with existing and/or potential uses for aquatic life, water supply and recreation.

*Outfalls 004 and 005: existing stormwater discharges.*

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow					
Suspended Solids			Monitor and Report		

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Oil and Grease			Monitor and Report		
pH			Monitor and Report		

*Outfall 006:* existing stormwater discharge.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Suspended Solids			Monitor and Report		
Oil and Grease			Monitor and Report		

The EPA waiver is not in effect.

**PA0095044**, Sewage, **Northgate Townhouses Condo Association**, 380 Z Northgate Drive, Apollo, PA 15613. This application is for renewal of an NPDES permit to discharge treated sewage from Northgate Townhouses STP in Washington Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as UNT of Pine Run, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Buffalo Township Municipal Authority.

*Outfall 001:* existing discharge, design flow of 0.0042 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	2.0			4.0
(11-1 to 4-30)	3.2			6.4
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a Geometric Mean			
(10-1 to 4-30)	2,000/100 ml as a Geometric Mean			
Total Residual Chlorine	0.04			0.09
Dissolved Oxygen	not less than 5.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

### III. WQM Industrial Waste and Sewerage Applications under The Clean Streams Law (35 P. S. §§ 691.1—691.1001)

*Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**WQM Permit No. 4807406**, Sewerage, **Borough of Glendon**, 24 Franklin Street, Glendon, PA 18042. This proposed facility is located in Glendon Borough, **Northampton County**.

Description of Proposed Action/Activity: This project consists of Phase III at the Glendon Business Center and will include construction of Pump Station No. 3 with 4,000 gpd of sewage flows from the four lots.

**WQM Permit No. 6407402**, Sewerage, **CBR Enterprises, LTD**, 139-23 Queens Boulevard, Jamaica, NY 11435. This proposed facility is located in Lehigh Township, **Wayne County**.

Description of Proposed Action/Activity: This project consists of construction of a wastewater treatment plant to service the Fun Station, which is a new commercial development. This family recreation center is to include a restaurant, snack bar, driving range, go carts, batting cages and other family activities. Proposed sewage flows for this development will be 7,500 gpd.

*Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.*

**WQM Permit No. 2807406**, Sewerage, **Joseph and April Rollason**, 2695 Grand Point Road, Chambersburg, PA 17202. This proposed facility is located in Greene Township, **Franklin County**.

Description of Proposed Action/Activity: Construction of an Individual Spray Irrigation System to serve their single-family residence on Lot No. 11.

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**WQM Permit No. 1707404**, Industrial Waste, SIC 4952, Sewerage, **Bradford Township**, 2289 Barrett Road, Suite B, Woodland, PA 16881. This proposed facility is located in Bradford Township, **Clearfield County**.

Description of Proposed Action/Activity: The applicant proposes several generalized designs for Small Flow Treatment Facilities (SFTF) in Bradford Township, Clearfield County. The generalized SFTF designs will be utilized in projects within the township where construction of a SFTF is required. Each generalized design will be in accordance with the Department of Environmental Protection's Small Flow Treatment Facilities Manual. For each SFTF proposed, a separate Water Quality Management Permit Amendment will be required.

*Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**WQM Permit No. 0307202**, Industrial Waste, **Reliant Energy Northeast Management Company**, 121 Champion Way, Suite 200, Canonsburg, PA 15317-5817. This proposed facility is located in Plumcreek, Burrell, Kittanning, Manor and Bethel Townships, **Armstrong County**.

Description of Proposed Action/Activity: Application for the construction and operation of a new pipeline to transport treated FGD purge water from the Keystone Generating Station to the Allegheny River.

**WQM Permit No. 0307401**, Sewerage, **North Buffalo Township**, 149 McHaddon Road, Kittanning, PA 16201. This proposed facility is located in North Buffalo Township, **Armstrong County**.

Description of Proposed Action/Activity: Application for the construction and operation of a sewer extension.

**WQM Permit No. 2607401**, Sewerage, **T. J. Amusement Corporation**, 6229 National Pike, Grindstone, PA 15442. This proposed facility is located in Redstone Township, **Fayette County**.

Description of Proposed Action/Activity: Application for the construction and operation of a sewage treatment plant for a proposed restaurant.

*Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**WQM Permit No. 6107401**, Sewerage, **Highway 322 Realty Company**, P. O. Box 1030, Franklin, PA 16323. This proposed facility is located in Cranberry Township, **Venango County**.

Description of Proposed Action/Activity: In order to improve the quality of the effluent, a new treatment plant is proposed for construction along with the complete demolition of the existing WWTP. The current permitted flow will be maintained.

**WQM Permit No. 6107402**, Sewerage, **Oil Creek Township**, 16835 Shreve Run Road, Pleasantville, PA 16341. This proposed facility is located in Pleasantville Borough, **Venango County**.

Description of Proposed Action/Activity: A sewer extension project proposing to serve residents along SR 27 from Pleasantville toward Enterprise and from Pleasantville toward Titusville, Jerusalem Corners Road, North Main Street Extension, SR 227, South Main Street Extension and Route 36 in Oil Creek Township, Venango County. The wastewater will be routed to the Pleasantville Borough Sewage Treatment Plant.

**WQM Permit No. 6107403**, Sewerage, **Country Acres Personal Care Home, Inc.**, 2017 Meadville Road, Titusville, PA 16354. This proposed facility is located in Cherrytree Township, **Venango County**.

Description of Proposed Action/Activity: Construction of a new extended aeration treatment facility to repair a malfunctioning onlot septic system.

**WQM Permit No. 4301202**, Industrial Waste, Amendment No. 1, **John Koller & Son, Inc.**, Fairview Swiss Cheese, 1734 Perry Highway, Fredonia, PA 16124. This proposed facility is located in Fairview Township, **Mercer County**.

Description of Proposed Action/Activity: This is an upgrade of the current Waste Water Treatment Plant to add an anaerobic technology treatment which achieves ultra high-rate, biological treatment while minimizing energy use, sludge production and chemical utilization.

**WQM Permit No. 3307401**, Sewerage, **Department of Conservation and Natural Resources, Bureau of Facility Design & Construction**, Rachel Carson State Office Building, P. O. Box 8451, Harrisburg, PA 17105-8451. This proposed facility is located in Barnett Township, **Jefferson County**.

Description of Proposed Action/Activity: This is a construction of a new Waste Water Treatment Plant with a septic tank/recirculating sand filter system with ultraviolet disinfection. This is to treat the wastewater from a new bath house at the cabin area in the park and treat sewage flows from new flush toilet facilities.

**WQM Permit No. 4374404**, Sewerage, Amendment No. 1, **Borough of Grove City**, P. O. Box 110, Grove City, PA 16127. This proposed facility is located in Grove City Borough, **Mercer County**.

Description of Proposed Action/Activity: This will renovate the existing wastewater treatment plant as well as expand it to increase its permitted capacity for the anticipated growth in the surrounding communities served by the Borough of Grove City. The renovation is a 3.7 mgd regional WWTP utilizing the Integrated Fixed Film Activated Sludge process.

**WQM Permit No. 3307402**, Sewerage, **Winslow Township**, 1277 Yellow Brick Road, Reynoldsville, PA 15851. This proposed facility is located in Winslow Township, **Jefferson County**.

Description of Proposed Action/Activity: A sewer extension to extend a portion of the Borough of Sykesville's existing wastewater collection system to serve the Village of Soldier residential area.

**WQM Permit No. 6207401**, Sewerage, **Department of Conservation and Natural Resources, Bureau of Facility Design & Construction**, Rachel Carson State Office Building, P. O. Box 8451, Harrisburg, PA 17105-8451. This proposed facility is located in Pleasant Township, **Warren County**.

Description of Proposed Action/Activity: This project will provide residential sewage collection service to camping and recreational campsites within Chapman State Park, through pumping stations located at Campground Area (Pump Station No. 1); Concession Stand and First Aid Station (Pump Station No. 2) and Existing Restroom (Pump Station No. 3). Sewage from these three pumping stations will flow through a common force main to the eastern edge of the Park and an existing municipal gravity sewer main which then flows to the Kinzua-Warren County Joint Authority WWTP.

**WQM Permit No. 6207201**, Industrial Waste, **United Refining Company**, Box 780, Warren, PA 16365. This proposed facility is located in the City of Warren, **Warren County**.

Description of Proposed Action/Activity: This a new permit to upgrade its effluent treatment plant to improve secondary oil/water separation and to improve removal of biological solids.

---

#### **IV. NPDES Applications for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)**

---

#### **V. Applications for NPDES Wavier Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)**

---

#### **VI. NPDES Individual Permit Applications for Discharges of Stormwater Associated with Construction Activities**

---

*Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI010907020	Prime Partners, Inc. 1630 Meeting House Road Hartsville, PA 18974	Bucks	Springfield Township	Cook Creek EV
PAS10G524R	Baker Residential of PA, LLC d/b/a Iacobucci Homes 2EF Raymond Drive Havertown, PA 19083	Chester	Penn Township	East Branch Big Elk Creek HQ
PAI011507047	William J. McCuen P. O. Box 609 Unionville, PA 19375-0609	Chester	Newlin Township	UNT West Branch Brandywine Creek EV-MF
PAI011507048	Maack Residential, LP 1030 West Germantown Pike P. O. Box 287 Fairview Village, PA 19409	Chester	East Coventry Township	Pigeon Creek HQ-TSF
PAI012307005	Rose Tree Media School District 308 North Olive Street Media, PA 19063	Delaware	Middletown Township	Ridley Creek HQ-TSF
PAI011507006	Masterpiece Homes 771 East Lancaster Avenue Villanova, PA 19085	Delaware	Newtown Township	Crum Creek HQ-CWF

*Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

*Lehigh County Conservation District: Lehigh Agricultural Center, Suite 102, 4184 Dorney Park Road, Allentown, PA 18104, (610) 391-9583.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10Q1252R1	James Gentile Polaris Iron Run, LP 7562 Penn Drive Allentown, PA 18106	Lehigh	Lower Macungie Township	Swabia Creek HQ-CWF
PAI023907026	Steven Morrow Coca-Cola North America 7551 Schantz Road Allentown, PA 18106	Lehigh	Upper Macungie Township	Tributary to Iron Run HQ-CWF

*Wayne County Conservation District: 648 Park Street, Honesdale, PA 18431, (570) 253-0930.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI026407003	Kernwood Homes, Inc. 1100 Church Street Honesdale, PA 18431	Wayne	Berlin Township	Holbert Creek HQ-CWF

*Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI030607007	Francis X. Hanson Atlas Minerals & Chemicals 1227 Valley Road P. O. Box 38 Mertztown, PA 19539	Berks	Longswamp Township	Toad Creek-Little Lehigh HQ

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

*Clinton County Conservation District: 45 Cooperation Lane, Mill Hall, PA 17751, (570) 726-3798.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI0418040032	Clinton County Economic Partnership 212 North Jay Street Lock Haven, PA 17745	Clinton	Lamar Township	UNT to Fishing Creek HQ-CWF
PAI041807002	Department of Conservation and Natural Resources Bureau of Forestry P. O. Box 8451 8th Floor RCSOB Harrisburg, PA 17105-8451	Clinton	Chapman Township	Young Womans Creek HQ-CWF

*Lycoming County Conservation District: 542 County Farm Road, Suite 202, Montoursville, PA 17754, (570) 433-3003.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI044107003	James Kalp Department of Conservation and Natural Resources 400 Market Street Harrisburg, PA 17105	Lycoming	Cummings Township	Lower Pine Bottom Run HQ-CWF

*Montour County Conservation District: 112 Woodbine Lane, Suite 2, Danville, PA 17821, (570) 271-1140.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAR104725R	Hank Schmidt 565 Marjorie Mae Street State College, PA 16803	Centre	Liberty Township	Chillisquaque Creek WWF

## **VII. List of NOIs for NPDES and/or Other General Permit Types**

PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

## **PUBLIC WATER SUPPLY (PWS) PERMIT**

Under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17), the following parties have applied for a PWS permit to construct or substantially modify a public water system.

Persons wishing to comment on a permit application are invited to submit a statement to the office listed before the application within 30 days of this public notice. Comments received within the 30-day comment period will be considered in the formulation of the final determinations regarding the application. Comments should in-

clude the name, address and telephone number of the writer and a concise statement to inform the Department of Environmental Protection (Department) of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

Following the comment period, the Department will make a final determination regarding the proposed permit. Notice of this final determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The permit application and any related documents are on file at the office listed before the application and are available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

Persons with a disability who require an auxiliary aid, service or other accommodations to participate during the 30-day public comment period should contact the office listed before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

### SAFE DRINKING WATER

#### Applications Received under the Pennsylvania Safe Drinking Water Act

*Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**Permit No. 2607503**, Public Water Supply.

Applicant	<b>Municipal Authority of Westmoreland County</b> 6064 Route 30 P. O. Box 730 Greensburg, PA 15601
Township or Borough	Hempfield and East Huntingdon Townships
Responsible Official	Christopher Kerr, Resident Manager Municipal Authority of Westmoreland County 6064 Route 30 P. O. Box 730 Greensburg, PA 15601
Type of Facility	Indian Creek Water treatment plant
Consulting Engineer	H. F. Lenz Company 1407 Scalp Avenue Johnstown, PA 15904
Application Received Date	October 10, 2007
Description of Action	Installation of a packaged booster pump station and a 250,000 gallon elevated water storage tank within the Westmoreland County Distribution Park.

*Northwest Region: Water Supply Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**Application No. 1607501**, Public Water Supply.

Applicant	<b>Paint Township Water Authority</b>
Township or Borough	Paint Township <b>Clarion County</b>
Responsible Official	Eugene L. Bushyeager, Authority Chairman
Consulting Engineer	William G. Murphy, P. E. Maquire Group, Inc. One Court Street New Britain, CT 06051
Application Received Date	October 26, 2007

#### Description of Action

Construction of waterline to service residents and businesses situated along Route 66, Doe Run Road, McClain-Watson, Myers and Manor Church Roads within Township. Project involves installation of a pipeline infrastructure from existing waterline. Water source is PA American Water.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

### UNDER ACT 2, 1995

#### PREAMBLE 1

#### Acknowledgment of Notices of Intent to Remediate Submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the Background Standard, Statewide Health Standard, the Site-Specific Standard or who intend to remediate a site as a special industrial area must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one, a combination of the cleanup standards or who receives approval of a special industrial area remediation identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a Site-Specific Standard, in whole or in part, and for sites remediated as a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the sites identified, proposed for remediation to a Site-Specific Standard or as a special industrial area, the municipality within which the site is located may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment period, the municipality may request that the person identified as the remediator of the site develop and implement a public involvement plan. Requests to be involved and comments should be directed to the remediator of the site.



For further information concerning the content of a Notice of Intent to Remediate, contact the environmental cleanup program manager in the Department regional office before which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following Notices of Intent to Remediate:

*Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**J. H. Brubaker Lumber Company**, East Hempfield Township, **Lancaster County**. Converse Consultants, 2738 West College Avenue, State College, PA 16801, on behalf of J. H. Brubaker Lumber Company, 2008 Marietta Avenue, Lancaster, PA 17603, submitted a Notice of Intent to Remediate site soils contaminated with VOCs and lead. The property is and will remain a commercial lumberyard, wood mill and home improvement supply facility. The applicant is seeking to remediate the site to the Statewide Health Standard.

**Blossom Wood Development**, Mount Joy Borough, **Lancaster County**. GCI Environmental Services, 1250 East King Street, Lancaster, PA 17602, on behalf of Lepore-Moyers Partnership, 604 New Holland Avenue, Suite J, Lancaster, PA 17602-2199, submitted a Notice of Intent to Remediate soils and groundwater contaminated with VOCs and SVOCs from an adjacent historical coal gasification plant. The property is currently a vacant lot and future use is a planned residential community. The applicant is seeking to remediate to both the background and Site-Specific Standards.

**Boyertown TCE Site**, Colebrookdale and Douglass Townships, **Berks and Montgomery Counties**. Penn E & R, Inc., 2755 Bergey Road, Hatfield, PA 19440, on behalf of Boyertown Associates, 210 North Fourth Avenue, P. O. Box 89, Royersford, PA 19468-0089, submitted a Notice of Intent to Remediate site groundwater contaminated with TCE most likely due to historical use of the property. The site was originally investigated by HSCA. Future use of the site is commercial. The applicant is seeking to remediate to the Site-Specific Standard. The Notice of Intent to Remediate is a requirement of a Consent Order and Agreement between the Department of Environmental Protection and Boyertown Associates.

*Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**Trans X Limited I-80 West MM 180 Accident**, Lamar Township, **Clinton County**, Northridge Group, Inc., 1172 Ridge Road, Northumberland, PA on behalf of Trans X Limited, 2595 Inkster Boulevard, Winnipeg Manitoba, Canada R3C2E6A 17857 has submitted a Notice of Intent to Remediate soil contaminated with diesel fuel. The applicant proposes to remediate the site to meet the Statewide Health Standard. The site will remain as the median area of the interstate highway.

**National Freight Corp I-80 MM 179 Accident**, Lamar Township, **Clinton County**, Northridge Group Inc., 1172 Ridge Road, Northumberland, PA 17857 on behalf of National Freight Corp., c/o Bressler's Towing & Recovery, 2994 East Valley Road, Loganton, PA 17747 has

submitted a Notice of Intent to Remediate soil contaminated with diesel fuel. The applicant proposes to remediate the site to meet the Statewide Health Standard. The site will remain an interstate highway.

**Apex Homes, Inc.**, Monroe Township, **Snyder County**, Northridge Group, Inc., 1172 Ridge Road, Northumberland, PA 17857 on behalf of Apex Homes, Inc., 7172 SR 522, Middleburg, PA 17842 has submitted a Notice of Intent to Remediate soil contaminated with diesel fuel. The applicant proposes to remediate the site to meet the Statewide Health Standard. The area will continue to be a public roadway.

## AIR QUALITY

### PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

#### NEW SOURCES AND MODIFICATIONS

The Department of Environmental Protection (Department) has developed an "integrated" plan approval, State operating permit and Title V operating permit program. This integrated approach is designed to make the permitting process more efficient for the Department, the regulated community and the public. This approach allows the owner or operator of a facility to complete and submit all the permitting documents relevant to its application one time, affords an opportunity for public input and provides for sequential issuance of the necessary permits.

The Department has received applications for plan approvals and/or operating permits from the following facilities.

Copies of the applications, subsequently prepared draft permits, review summaries and other support materials are available for review in the regional office identified in this notice. Persons interested in reviewing the application files should contact the appropriate regional office to schedule an appointment.

Persons wishing to receive a copy of a proposed plan approval or operating permit must indicate their interest to the Department regional office within 30 days of the date of this notice and must file protests or comments on a proposed plan approval or operating permit within 30 days of the Department providing a copy of the proposed document to that person or within 30 days of its publication in the *Pennsylvania Bulletin*, whichever comes first. Interested persons may also request that a hearing be held concerning the proposed plan approval and operating permit. Comments or protests filed with the Department regional offices must include a concise statement of the objections to the issuance of the Plan approval or operating permit and relevant facts which serve as the basis for the objections. If the Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior the date of the hearing.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the regional office identified before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984. Final plan approvals and operating permits will contain terms and conditions to ensure that the source is constructed and operating in compliance with applicable requirements in 25 Pa. Code Chapters 121-143, the Federal Clean Air Act (act) and regulations adopted under the act.

## PLAN APPROVALS

**Plan Approval Applications Received under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B that may have special public interest. These applications are in review and no decision on disposition has been reached.**

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ronald Davis, New Source Review Chief, (717) 705-4702.*

**36-03171: New Holland Concrete—Division of Martin Limestone, Inc.** (875 East Earl Road, New Holland, PA 17557) for use of treated landfill gas in the facility's existing boiler in East Earl Township, **Lancaster County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, George Monasky, New Source Review Chief, (814) 332-6940.*

**24-083M: INMETCO** (One INMETCO Drive, Ellwood City, PA 16117) for installation of a 156,000 acfm baghouse to replace the current venturi scrubber system for the Rotary Hearth Furnace in Ellwood City Borough, **Lawrence County**. This is a Title V facility.

**42-215A: Kane Area School District** (6965 Route 321, Kane, PA 16735) for installation of a Bio-Mass Fuel-Fired Boiler with a Multi-Cyclone control device for Particulate Equipment at their Kane facility in the Township of Kane, **McKean County**.

**Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19428, Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.*

**46-0267: SmithKline Beecham Research Company—d/b/a GlaxoSmith Kline** (1250 South Collegeville Road, Collegeville, PA 19426) for installation of eight 2000-kW diesel/No. 2 fuel oil fired electric generators at a new Corporate Data Center in Upper Providence Township, **Montgomery County**. The facility will be limited to 173,750 gallons of diesel/No. 2 fuel oil and 22.8 tons of NO<sub>x</sub> both on a 12-month rolling sum basis. This facility will be non-Title V. The primary purpose of the generators is emergency power generation. The new generator engines will be designed with aftercooling to minimize formation of NO<sub>x</sub> and electronic and computerized combustion controls to minimize emissions of Non-methane Hydrocarbons (NMHC), PM and CO. The engines will be EPA Tier 2 compliant. The generators will comply with the sulfur content of 0.05% in the diesel/No. 2 fuel oil as required by 40 CFR Part 60, Subpart IIII. The owner/operator shall keep records of fuel usage and sulfur content to show compliance with the requirements of the Plan Approval.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Neal Elko, New Source Review Chief, (570) 826-2531.*

**40-305-027A: Mountaintop Anthracite, Inc.** (1550 Crestwood Drive, Mountaintop, PA 18707) for modification and operation of an anthracite coal processing operations at their facility in Wright Township, **Luzerne County**. By this application, the Company has applied to obtain operational restrictions for an anthracite coal drying, screening and packaging facility to process less than 200 tons of coal per day. The coal at a rate of 10 tph will process through dryer, and other equipment for packaging. PM emissions from the dryer and fugitive PM emissions from the plant equipment will be controlled by baghouses. Expected PM emission rate will be less than 0.02 grain/dscf from each baghouse. The company will operate the facility and maintain the system in accordance with the good engineering practices to assure proper operation of the system. The Plan Approval and Operating permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, David Aldenderfer, Program Manager, (570) 327-3637.*

**49-00007E: Merck & Co., Inc.—Cherokee Plant** (P. O. Box 600, Danville, PA 17821) for a plan approval application for the establishment of a plantwide applicability limit (PAL) under 25 Pa. Code § 127.218 and to reevaluate BAT for the chemical processing equipment in an effort to allow increased flexibility to make process changes at the Cherokee plant located in Riverside Borough, **Northumberland County**. This modification includes a lower VOC emission limit (34.62 to 12.0 tpy) for the processing equipment and the establishment of a new HAP emission limit from historical process data. This modification also includes an increase in the required use of the thermal oxidizer unit at the facility. The respective facility is a major facility for which a Title V operating permit (49-00007) has been issued. There are no new sources proposed to be constructed in this application.

The Department of Environmental Protection's (Department) review of the information contained in the application indicates that the proposed operation will comply with all applicable regulatory requirements pertaining to air contamination sources and the emission of air contaminants including 40 CFR Part 63, Subpart GGG—National Emission Standards for Pharmaceuticals Production (Pharmaceutical MACT Rule), the synthesized pharmaceutical products requirements of 25 Pa. Code § 129.68 and the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12. Based on this finding, the Department intends to issue a plan approval for the proposed flexibility of operation. Additionally, if the Department determines that the sources are operating in compliance with the plan approval conditions, the conditions established in the plan approval will be incorporated into the operating permit by means of an administrative amendment under 25 Pa. Code § 127.450.

The Department proposes to place in the plan approval the following conditions to ensure compliance with all applicable regulatory requirements:

1. In accordance with the PAL provisions of 25 Pa. Code § 127.218(g), the total combined VOC emissions, including fugitive emissions, from the facility shall not exceed 82.14 tons in any 12-consecutive month period. The effective period of this VOC PAL is 10 years from the issuance date of this plan approval.

2. In accordance with the PAL provisions of 25 Pa. Code § 127.218(g), if the permittee applies to renew the VOC PAL in accordance with 25 Pa. Code § 127.218(k) before the end of the PAL effective period, the PAL permit does not expire at the end of the PAL effective period. The PAL permit remains in effect until the Department issues a revised PAL permit.

3. In accordance with the PAL provisions of 25 Pa. Code § 127.218(g), emission calculations for compliance with the VOC PAL shall include emissions from startups, shutdowns and malfunctions.

4. In accordance with the PAL provisions of 25 Pa. Code § 127.218(g), upon expiration of the PAL permit, the permittee is subject to the requirements of 25 Pa. Code § 127.218(j).

5. In accordance with the PAL provisions of 25 Pa. Code § 127.218(g), the permittee shall monitor all VOC emissions at the facility in accordance with 25 Pa. Code § 127.218(m).

6. In accordance with the PAL provisions of 25 Pa. Code § 127.218(g), the permittee shall keep records of the monthly emissions of VOCs from the facility and the supporting calculations/documentation to verify compliance with the VOC PAL (includes total annual emissions in tpy based on a 12-month rolling total for each month in the reporting period), including a determination of the 12-month rolling total emissions from each emissions unit. The records shall be retained for a minimum of 5 years and shall be made available to the Department upon request.

7. In accordance with the PAL provisions of 25 Pa. Code § 127.218(g), the permittee shall submit semi-annual reports of the following:

(a) The monthly emissions of VOCs from the facility and the supporting calculations/documentation to verify compliance with the VOC PAL (includes total annual emissions in tpy based on a 12-month rolling total for each month in the reporting period).

(b) A list of the emissions units modified or added to the major facility during the preceding 6-month period.

(c) The number, duration and cause of deviations or monitoring malfunctions, other than the time associated with zero and span calibration checks, and the corrective action taken.

(d) A notification of a shutdown of a monitoring system, even if the shutdown is temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully operational or replaced with another monitoring system, whether the emissions unit monitored

by the monitoring system continued to operate, and the calculation of the emissions of the pollutant or the number determined by the method included in the permit under subsection (m)(10).

(e) A statement signed by a responsible official of the company that owns or operates the facility certifying the truth, accuracy and completeness of the information provided in the report.

The semiannual reports shall be submitted to the Department no later than March 1 and September 1.

8. In accordance with the PAL provisions of 25 Pa. Code § 127.218(g), the permittee shall submit reports of deviations and exceedances of the PAL requirements in accordance with 25 Pa. Code § 127.218(o)(3).

9. In accordance with the PAL provisions of 25 Pa. Code § 127.218(g), the emissions from a new source that requires a plan approval shall be the minimum attainable through the use of BAT. A physical change or change in method of operation at an existing emissions unit will not be subject to BAT requirements of this chapter unless the emissions unit is modified so that the fixed capital cost of new components exceeds 50% of the fixed capital cost that would be required to construct a comparable entirely new emissions unit.

10. Under the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, all point source VOC emissions from Source ID 125 (Biotech Manufacturing Area) shall not exceed a total of 0.2 ton in any 12-consecutive month period.

11. Under the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, all point source HAP emissions from Source ID 125 shall not exceed a total of 0.2 ton in any 12-consecutive month period.

12. Under the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, fugitive VOC and acetone emissions from equipment leaks from Source ID 125 equipment shall be controlled by conducting weekly inspections of process equipment, during operation, for visible, audible or olfactory indications of leaks. Records of each inspection shall be maintained for a minimum of 5 years and shall include the results of each inspection and when leaky components have been repaired or replaced. Leaky components shall be repaired or replaced as soon as practicable, but not later than 15 calendar days after it is detected. Delay of repair for VOC and acetone equipment leaks is allowed if the permittee complies with the repair requirements of 40 CFR Part 63, Subpart GGG, 63.1255(b)(4)(i).

13. (a) Source ID 125 is a group of equipment used to manufacture biotechnology chemical products and includes the following process vessels and pieces of equipment:

Centrifuge CE-A-105  
Filter Press FP-A-112  
Kettle KE-A-115  
Tank TA-A-102  
Tank TA-A-108

Fermenter FE-G-12  
Heat Exchanger HE-A-110  
Kettle KE-A-116  
Tank TA-A-103  
Tank TA-B-7

Sparkler Filter FI-A-113  
Homogenizer HM-A-106  
Tank TA-A-101  
Tank TA-A-104  
Tank TA-B-19

(b) The air contaminant emissions from CE-A-105, FP-A-112 (except during filter press cake unloading), TA-A-101, TA-A-102, TA-A-103, TA-A-104 and TA-A-108 shall be controlled by a scrubbing system (Control Device ID C126) consisting of an EST Corporation type 910 ejector venturi followed by an EST Corporation type 955 packed bed scrubber using water as the scrubbing medium.

14. The permittee shall be allowed to make process changes to Source ID 125 provided these process changes do not increase the Source ID 125 emissions above the established permitted limits and no additional HAPs are involved. The permittee shall advise the Department of these changes, but no formal approvals will be required provided the changes and resultant impact on actual and

potential emissions from these changes are summarized to the Department annually.

15. Under the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, all point source VOC emissions from Source ID 140 (Pharmaceutical/Chemical Manufacturing) shall not exceed a total of 12.0 tons in any 12-consecutive month period.

16. Under the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, all point source HAP emissions from Source ID 140 shall not exceed a total of 6.0 tons in any 12-consecutive month period.

17. The use of any HAPs other than those identified in any plan approval application (toluene, hexane, triethylamine, acetonitrile, methylene chloride, trimethyl pentane, dimethyl formamide, HCl and methanol) is prohibited unless the permittee has first requested permission, in writing, and has subsequently received Department approval to do so.

18. Under the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, fugitive VOC and acetone emissions from equipment leaks from Source ID 140 equipment shall be controlled by conducting weekly inspections of process equipment, during operation, for visible, audible or olfactory indications of leaks. Records of each inspection shall be maintained for a minimum of 5 years and shall include the results of each inspection and when leaky components have been repaired or replaced. Leaky components shall be repaired or replaced as soon as practicable, but not later than 15 calendar days after it is detected. Delay of repair for VOC and acetone equipment leaks is allowed if the permittee complies with the repair requirements of 40 CFR Part 63, Subpart GGG, 63.1255(b)(4)(i).

19. (a) Source ID 140 is a group of equipment used to manufacture pharmaceutical/chemical products and includes the following process vessels and pieces of equipment:

BN-1790	FD-1655*	ST-1240*	TA-1233	TA-1764	TA-49E*
CE-1123*	FD-2650*	ST-1245*	TA-1238*	TA-1770	TA-54*
CE-1127*	FD-2670*	ST-1415*	TA-1249*	TA-1782	TA-57
CE-1260*	FD-3100*	ST-1421*	TA-1250*	TA-18*	TA-59*
CE-1430*	FD-3110	ST-1447*	TA-1255*	TA-1804	TA-603
CE-1560	FI-1685	ST-1501*	TA-1257*	TA-1811	TA-604
CE-3033	FP-3025	ST-1510*	TA-1270*	TA-2645	TA-618*
CE-51*	HP-3150	ST-1525*	TA-1275*	TA-2665*	TA-619*
CE-75*	MI-1165	ST-1631	TA-1288*	TA-2668*	TA-62
CL-765*	MT-1121*	ST-2600*	TA-1291*	TA-2680	TA-627*
CL-1278*	PF-1440A	ST-2630*	TA-1293*	TA-2690	TA-628*
CL-1280*	PF-1440B	ST-2690*	TA-1295	TA-2705*	TA-637*
CL-1633	PF-1440C	ST-2700*	TA-1297*	TA-2715*	TA-638*
CL-1791*	PF-1648*	ST-2710*	TA-13*	TA-2720*	TA-663*
CL-1795*	PF-1649*	ST-2920*	TA-1301*	TA-2740*	TA-668*
CL-2680	PF-1709*	ST-2950*	TA-1303	TA-2745*	TA-67*
CL-2800*	PF-1767	ST-614*	TA-1305	TA-2750*	TA-68*
CL-3310	PF-38A	ST-615*	TA-1403	TA-2755*	TA-70*
CL-3340	PF-38B	ST-661*	TA-1409	TA-2770	TA-723*
CL-4000	RE-1001*	ST-780*	TA-1426*	TA-2775	TA-724*
CL-4010	RE-1004*	ST-785*	TA-1432*	TA-2810*	TA-73*
CL-4020	RE-1022*	ST-85*	TA-1435*	TA-2890*	TA-741
CL-4030	RE-1110	SU-2890	TA-1440*	TA-2905*	TA-746*
CL-701*	RE-1210*	TA-01*	TA-1444*	TA-2955*	TA-752*
CL-759*	RE-1651*	TA-02	TA-1450*	TA-2960*	TA-764*
CO-1811	RE-1676*	TA-03	TA-1473*	TA-2965*	TA-766
CR-1119*	RE-1680*	TA-06*	TA-1479	TA-2970*	TA-771*
DE-1282*	RE-1701	TA-08*	TA-1505*	TA-2975*	TA-776*
DE-1706*	RE-1730*	TA-09*	TA-1520*	TA-3000	TA-78*
DE-2815*	RE-2620*	TA-10*	TA-1522*	TA-3015	TA-790*
DE-2895*	RE-2660*	TA-1000*	TA-1530	TA-3033	TA-806*
DE-3330	RE-3010	TA-1005*	TA-1532*	TA-3035*	TA-807*
DE-3360	RE-3020	TA-1007	TA-1538*	TA-3075*	TA-811*
DE-704*	RE-3120	TA-1008	TA-1542*	TA-311*	TA-812*
DE-787*	RE-3410	TA-1012	TA-1548*	TA-3130	TA-83*
DR-1470*	RO-1755	TA-1015*	TA-1550*	TA-3300	TA-836*
DR-1625	RO-4040	TA-1025	TA-16*	TA-3380	TA-845*
DR-1671	SE-13	TA-1030	TA-1625	TA-34*	TA-858*
DR-1675*	SE-1675	TA-1031*	TA-1635	TA-3400	TA-864*
DR-1775	SE-1692	TA-1033*	TA-1639	TA-35*	TA-87*
DR-1811A	SE-1811	TA-1036*	TA-1645*	TA-3500	TA-889*
DR-1811B	SE-22*	TA-1050	TA-1650	TA-3510	TA-89*
DR-2685	SE-31	TA-1103	TA-1665	TA-39*	TA-96
EV-1230*	SE-32*	TA-1130*	TA-1668	TA-43*	TA-C2
EV-14*	SE-3320	TA-1135*	TA-1669*	TA-44	UF-1761
EV-1701	SE-3344	TA-1154*	TA-1675	TA-45*	UF-1801
EV-30*	SE-353	TA-1160*	TA-1682*	TA-47*	UF-3090
EV-735*	SE-36*	TA-12*	TA-1687*	TA-48*	UF-3140

EX-2640\*  
EX-3030  
EX-3040

SE-702  
SE-737  
SE-760\*

TA-1201\*  
TA-1224  
TA-1225\*  
TA-1227\*

TA-1696\*  
TA-1747  
TA-1751  
TA-1753

TA-485  
TA-486

FI-F7TEMP

(b) Under the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, the air contaminant emissions from the above pieces of equipment marked with a \* shall be controlled by the T-Thermal No. LPV-14M thermal oxidizer (Control Device ID C500, referenced as IN-2050) equipped with two natural gas fired burners: one 13.5 mmBtu/hr modified (low NO<sub>x</sub>, LPV-14M) burner and a 1.5 mmBtu/hr HV-4018 burner, followed by the associated Sub-X water-cooled quench and Ceilcote No. SPT-54-120 packed bed scrubber (Control Device ID C501), or for backup, the T-Thermal model Sub-X fume incinerator (Control Device ID C150, referenced as IN-226) utilizing two No. 2 fuel oil-fired burners having rated capacities of 1.5 and 4.5 mmBtu/hr, followed by a Ceilcote model SPT-30-156 packed bed scrubber (Control Device ID C154, referenced as SC-225) utilizing a caustic/water solution as the scrubbing medium, associated quench tank (TA-223) and associated quench sump (TA-224).

(c) The thermal oxidizer (Control Device IDs C500 or C150) need not be used for control of air contaminant emissions from ST-661 and TA-2960 of Source ID 140 whenever there is hydrogen gas in the exhaust of ST-661 in sufficient quantity to create a potential explosion hazard.

20. Under the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12 and the synthesized pharmaceutical provisions of 25 Pa. Code § 129.68, during thermal oxidizer (Control Device IDs C500 or C150) or associated scrubber (Control Device IDs C501 or C154) malfunctions, an alternative operating scenario consistent with the site's Start-up, Shutdown and Malfunction (SSM) Plan required for compliance with 40 CFR Part 63, Subpart GGG, and using vent condensers, as specified, meeting 25 Pa. Code § 129.68 requirements may be employed to complete the processing of batches or material currently in process to the next stable process hold point. However, no new batches may be charged, or processing initiated until the thermal oxidizer and associated scrubber is operational and is operating in accordance with the requirements contained in this plan approval. When the thermal oxidizer or associated scrubber is not available for control due to a malfunction, the permittee shall control the following vessels with the specified condensers at the specified coolant inlet temperatures when required for control to comply with 25 Pa. Code § 129.68:

<i>Equipment</i>	<i>Condenser**</i>	<i>Coolant Inlet Temperature</i>
TA-864	CN-864	32° C
TA-1275	CN-1275	-20° C
RE-1022	CN-1024	-10° C
TA-1645	CN-1647	-10° C
TA-1520	CN-1527	-20° C
TA-1522	CN-1527	-20° C
ST-1510	CN-1513	-20° C
DR-1470	CN-1472	-20° C
ST-661	CN-661	-20° C
ST-2710	VPs*	-20° C
ST-2630	VPs*	-20° C
ST-2600	VPs*	-20° C
RE-2660	VPs*	-20° C
EX-2640	CN-2640	-20° C
ST-2950	CN-2955	-20° C
TA-637	VPs*	-20° C

<i>Equipment</i>	<i>Condenser**</i>	<i>Coolant Inlet Temperature</i>
ST-2690	VPs*	-20° C
FD-2650	VPs*	-20° C
TA-2665	VPs*	-20° C
FD-2670	VPs*	-20° C
TA-663	VPs*	-20° C
TA-668	VPs*	-20° C
TA-618	VPs*	-20° C
TA-2970	VPs*	-20° C
TA-614	VPs*	-20° C
ST-2700	VPs*	-20° C
ST-2705	VPs*	-20° C
TA-12	CN-08	-20° C
TA-18	CN-18	+10° C
CE-51/TA-43	CN-51	-20° C
ST-85/TA-47	CN-47	-10° C
TA-59	CN-59	+10° C
TA-2960	CN-2962	+10° C

\*VP-2610, VP-2611, VP-2652, VP-2672 or VP-2678

\*\*Those condensers listed for more than one vessel shall only control one vessel at any time unless multiple approved vessels are part of an equipment train (that is, a unit operation such as distillation, steam/air stripping, extraction, and the like).

21. Under the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, during thermal oxidizer (Control Device IDs C500 or C150) or associated scrubber (Control Device IDs C501 or C154) malfunctions or during annual planned TOU and/or associated scrubber maintenance, the following type of processes may operate without TOU and associated scrubber control (that is, not subject to new batch charge stoppage and stable hold point alternative operating scenario):

(a) A process that emits less than 1.0 ton of VOCs in any 12-consecutive month period (from the sum of all process vents within a process) and emits HAPs less than the amount specified in 40 CFR 63.1254(a)(2)(i) (900 kg in any 365-day period).

(b) The sum of all process vent emissions from all processes that comply with (a) above shall be less than 2.0 tons of VOCs in any 12-consecutive month period and 1,800 kg of HAPs in any 365-day period as specified in 40 CFR 63.1254(a)(2)(ii).

22. The permittee shall be allowed to make process changes to Source ID 140 provided these process changes do not increase the Source ID 140 emissions above the established permitted limits and no additional HAPs are involved. The permittee shall advise the Department of these changes, but no formal approvals will be required provided the changes and resultant impact on actual and potential emissions from these changes are summarized to the Department annually.

23. Under the reasonably available control technology provisions of 25 Pa. Code §§ 129.57 and 129.91—129.95 and the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, each of the storage tanks of Source ID 155 (Bulk Storage Tanks) containing a VOC or HAP shall have a pressure relief valve which is maintained in good operating condition and which is set to release at no less than 0.7 psig of pressure or 0.3 psig of vacuum or the highest

possible pressure and vacuum in accordance with State or local fire codes or the National Fire Prevention Association guidelines or other national consensus standards acceptable to the Department.

24. Under the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, the following storage vessels of Source ID 155 shall not exceed the following VOC emission limits as specified:

<i>Tank</i>	<i>Maximum VOC Emissions (tons in any 12-consecutive month period)</i>
TA-104	1.18
TA-109	1.18
TA-114	1.18

25. [Compliance with the requirement specified in this streamlined permit condition assures compliance with the reasonably available control technology (RACT) VOC emission limit of 0.13 ton in any 12-consecutive month period for TA-860.]

Under the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, the air contaminant emissions from the following tanks of Source ID 155 shall be controlled by the T-Thermal model LPV-14M thermal oxidizer (Control Device ID C500, referenced as IN-2050) equipped with two natural gas fired burners: one 13.5 mmBtu/hr modified (low NO<sub>x</sub>, LPV-14M) burner and a 1.5 mmBtu/hr HV-4018 burner, followed by the associated Sub-X water-cooled quench and Ceilcote model SPT-54-120 packed bed scrubber (Control Device ID C501), or for backup, the T-Thermal model Sub-X fume incinerator (Control Device ID C150, referenced as IN-226) utilizing two No. 2 fuel oil-fired burners having rated capacities of 1.5 and 4.5 mmBtu/hr, followed by a Ceilcote model SPT-30-156 packed bed scrubber (Control Device ID C154, referenced as SC-225) utilizing a caustic/water solution as the scrubbing medium, associated quench tank (TA-223) and associated quench sump (TA-224):

TA-854, TA-101, TA-814, TA-860, TA-876, TA-862 and TA-858

26. Under the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, during thermal oxidizer (Control Device IDs C500 or C150) or associated scrubber (Control Device IDs C501 or C154) malfunctions, an alternative operating scenario consistent with the site's Start-up, Shutdown and Malfunction (SSM) Plan required for compliance with 40 CFR Part 63, Subpart GGG may be employed to complete the processing of batches or material currently in process to the next stable process hold point. However, no raw material tank filling shall be initiated for those tanks required to be controlled by the thermal oxidizer until the thermal oxidizer and associated scrubber is operational and is operating in accordance with the requirements contained in this plan approval. When the thermal oxidizer or associated scrubber is not available for control due to an unplanned outage, the permittee shall control TA-862 with a condenser (Control Device ID C166, referenced as CN-862A) and a pressure control valve (Control Device ID C167).

Copies of the application and the Department's review of the application are available for public review between 8 a.m. and 4 p.m. at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review may be made by calling the Department at (570) 327-3693.

Written comments or requests for a public hearing should be directed to Muhammad Q. Zaman, Manager, Facilities Permitting Section, Department of Environmental Protection, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-0512.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, George Monasky, New Source Review Chief, (814) 332-6940.*

**24-119A: Advanced Heat Treating, Inc.** (1059 Trout Run Road, St. Marys, PA 15857) for installation of a Smog Hog (electrostatic precipitator) in the City of St. Marys, **Elk County**.

Under 25 Pa. Code §§ 127.44(a) and 127.424(b), the Department of Environmental Protection (Department) intends to issue a Plan Approval for their plant in the City of St. Marys, Elk County. This plan approval will authorize the applicant to install a Smog Hog (electrostatic precipitator), as described in the applicant's application of May 14, 2007. The Plan Approval will subsequently be incorporated into the company's Title V Operating Permit through an administrative amendment in accordance with 25 Pa. Code § 127.450.

Based on the information provided by the applicant and Department's own analysis, the Smog Hog will emit approximately 0.02 ton of PM per year.

Copies of the application, the Department's analysis, and other documents used in the evaluation are available for public inspection between the hours of 8 a.m. and 4 p.m. weekdays at the address shown. To make an appointment, contact Records Management at (814) 332-6340, for an appointment.

Anyone wishing to provide the Department with additional information they believe should be considered may submit the information to the address shown. Comments must be received, by the Department, within 30 days of the last day of publication. Written comments should include the following:

1. Name, address and telephone number of the person submitting comments.
2. Identification of the proposed Plan Approval; No. 24-119A.
3. Concise statement regarding the relevancy of the information or any objections to issuance of the Plan Approval.

A public hearing may be held, if the Department, in its discretion, decides that such a hearing is warranted on the comments received during the public comment period. Persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in a local newspaper of general circulation or the *Pennsylvania Bulletin* or by telephone, where the Department determines such notification is sufficient. Written comments or requests for a public hearing should be directed to John Guth, Regional Air Quality Manager, Department of Environmental Protection, Northwest Regional Office, 230 Chestnut Street, Meadville, PA 16335, (814) 332-6636.

**25-0066G: Accuride Erie, LP** (1015 East 12th Street, Erie, PA 16503) for construction of two new 7,000 Ton Forge Lines at their aluminum truck wheel forging plant in Erie, **Erie County**.

In accordance with 25 Pa. Code §§ 127.44(d) and 127.424(d), the Department of Environmental Protection (Department) intends to issue a plan approval to construct two new 7,000 Ton Forge Lines at their Aluminum truck wheel forging plant in Erie, Erie County. This plan approval will restrict the facility-wide emissions of CO to 85 tpy. The facility is Natural Minor as regards potential and actual emissions. The CO restriction will allow for future increases in production and keep the facility's Natural Minor status. The source will also produce trivial amounts of NOx, VOC, PM, PM-10 and SOx from the burners. The emissions are based on a 12-month rolling total. The facility will be required to inspect the burners on a monthly basis and tune the burners on an annual basis. The permittee will be required to monitor the quantity of natural gas consumed by the burners. The plan approval will also include additional monitoring, reporting, and recordkeeping conditions and other requirements to ensure the source is operated in compliance with the Department's regulations contained in 25 Pa. Code Chapters 121–143 and the requirements of the Federal Clean Air Act. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into a State-only Operating Permit through an administrative amendment at a later date. Issuance of the plan approval is recommended with the appropriate conditions in the plan approval.

**25-648D: NEPA Energy, LP** (10915 Ackerman Road, North East, PA 16428) to de-rate an existing 146 mmBtu natural gas fired boiler to 99 mmBtu and to install gas-fired nozzles limited to fire 99 mmBtu/hr in the Borough of North East, **Erie County**.

Under 25 Pa. Code §§ 127.44(a) and 127.424(b), the Department of Environmental Protection (Department) intends to issue a Plan Approval for their plant in the Borough of North East, **Erie County**. This plan approval will authorize the applicant to de-rate an existing 146 mmBtu natural gas fired boiler to 99 mmBtu and to install gas-fired nozzles limited to fire 99 mmBtu/hr. The existing Low-NOx burner with induced flue gas recirculation will remain in place for use at high fire operations. The Plan Approval will subsequently be incorporated into the company's State-only Operating Permit through an administrative amendment in accordance with 25 Pa. Code § 127.450. Normal operations will be around 50 mmBtu. The boiler's hours of operation will be dependent on the ABCO primary boiler. The Zurn boiler will only be operated if the ABCO Boiler should go down due to malfunction or servicing.

Based on the information provided by the applicant and Department's own analysis, the natural gas fired boiler will emit 43.4 tons of NOx per year and 13.9 tons of CO per year. Actual emissions will decrease for both pollutants with the de-rating. The facility does not want to take emission limitations for the site. The highest load rating occurs during the Autumn months, September through October, where the steam power generated is directed to the Welch's Food Processing Plant across the street. The Department has accepted that the emissions generated from this source will be much lower than requested in the application.

Anyone wishing to provide Department with additional information they believe should be considered may submit the information to the address shown. Comments must be received, by the Department, within 30 days of the last day of publication. Written comments should include the following:

1. Name, address and telephone number of the person submitting comments.

2. Identification of the proposed Plan Approval; No. PA-10-062C.

3. Concise statement regarding the relevancy of the information or any objections to issuance of the Plan Approval.

A public hearing may be held, if the Department, in its discretion, decides that such a hearing is warranted on the comments received during the public comment period. Persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in a local newspaper of general circulation or the *Pennsylvania Bulletin* or by telephone, where the Department determines such notification is sufficient. Written comments or requests for a public hearing should be directed to John F. Guth, Regional Air Quality Manager, Department of Environmental Protection, Northeast Regional Office, 230 Chestnut Street, Meadville, PA, 16335, (814) 332-6940.

**43-142A: Salem Tube, Inc.** (951 Fourth Street, Greenville, PA 16125) for installation of a new vacuum degreasing line at their facility in Pymatuning Township, **Mercer County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection (Department) intends to issue a plan approval for installation of a new vacuum degreasing line at their facility in Pymatuning Township, Mercer County. The facility currently has a Title V Permit No. 43-00142 that was issued October 17, 2007. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V operating permit through an administrative amendment at a later date.

As a general summary, the following requirements are applicable to:

1. (a) The permittee shall install and operate the system as described in the plan approval application submitted by Salem Tube to the Department dated May 8, 2007 and subsequent correspondence.

- (b) The permittee shall operate and maintain the degreasing system in accordance with the manufacturer's specifications and good air pollution control practices. A copy of the manufacturer's specifications shall be kept onsite.

2. (a) The permittee may not permit to emit TCE or VOC from the degreaser more than 17Kg/m2/month (based on solvent interface area) calculated in a 3-month rolling average, and 2.5 ton of TCE or VOC in any consecutive 12-month rolling period.

- (b) The facility may petition the Department in writing for a higher limit if actual operations indicate higher emissions and the Department reserves the right to impose a lower limit if actual operations indicate lower emissions.

3. Four infrared spectral photometers will be installed and operated to continuously measure solvent concentrations. They will be located:

- (a) At the cleaning chamber to allow the automatic door to release only when TCE levels are below 1g/cubic meter.

- (b) After the regenerable activated carbon filter to indicate TCE levels and near breakthrough.

(c) After the non-regenerable activated carbon barrel filter if installed.

(d) In the workplace around the Vacuum Cleaning and Degreasing System.

4. The maximum TCE concentration measured by the infrared spectral photometers located after the regenerable activated carbon filter, after the non-regenerable activated carbon barrel filter if installed and in the workplace around the Vacuum Cleaning and Degreasing System shall be determined within 30 days of issuance of the plan approval, and shall be indicated to the Department in writing along with calculations that show that this concentration will insure compliance with the emission limit. The maximum TCE concentrations shall become the standard operating parameter for the control device and shall be made part of the facility operating permit.

Copies of the application, the Department's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at 230 Chestnut Street, Meadville, PA 16335.

Persons wishing to provide the Department with additional information, which they believe should be considered prior to the issuance of this permit, may submit the information to the address shown in the preceding paragraph. The Department will consider any written comments received within 30 days of the publication of this notice. Each written comment must contain the following:

Name, address and telephone number of the person submitting the comments. Identification of the proposed permit No.40-142A. A concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A public hearing may be held, if the Department, in its discretion, decides that such a hearing is warranted based on the comments received. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or the *Pennsylvania Bulletin* or by telephone, where the Department determines the notification is sufficient. Written comments or requests for a public hearing should be directed to Cary Cooper, P. E., New Source Review, 230 Chestnut Street Meadville, PA 16335, (814) 332-6940.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodations to do so should by contacting Cary Cooper, P. E. or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

If a plan approval has not undergone the previous public notice process, the change to an operating permit must be treated as a significant modification. In these situations the Department should follow the procedures described in §§ 127.421 to 127.431 for State-only operating permits or §§ 127.521 to 127.524 for Title V operating permits.

*Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104, Edward Braun, Chief, (215) 685-9476.*

**AMS 07137: Purolite Co.** (3620 G Street, Philadelphia, PA 19134) to install a closed loop sampling system on two reactors, a condenser to control emissions from the sampling system, and to remove an eductor system in the City of Philadelphia, **Philadelphia County**. The plan approval will contain operating, testing, monitoring,

recordkeeping and reporting requirements to ensure operation within all applicable requirements.

## PUBLIC HEARINGS

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Neal Elko, New Source Review Chief, (570) 826-2531.*

**40-00010: Certainteed Corp.** (1220 Oak Hill Road, Mountaintop, PA 18707) for approval of Reasonable Available Control Technology (RACT) Plans for Certainteed Corporation, Wright Township, **Luzerne County**.

The Department of Environmental Protection has made a preliminary determination to approve RACT plans and amendments to the State Implementation Plan (SIP) for Certainteed Corporation.

The proposed SIP revisions do not adopt any new regulations. They incorporate the provisions and requirements contained in RACT approvals for this facility to comply with current regulations.

The preliminary RACT determinations, if finally approved, will be incorporated into Plan Approvals/Operating Permits for the facility and will be submitted to the United States Environmental Protection Agency (EPA) as a revision to Pennsylvania's State Implementation Plan.

The main sources at the Certainteed facility are listed and a summary of the preliminary RACT determination for this facility:

M1/M2 Forming, Curing and cooling exhausting to the high stack (source S01) shall not exceed 15.5 lbs of VOC/ton of product.

MI Forming, Curing and Cooling (Source 103) shall have a maximum production rate of 80 MTPD.

M2 Forming, Curing and Cooling (source 104) shall have a maximum production rate of 125 MTPD.

A public hearing will be held for the purpose of receiving comments on the proposed Plan Approvals/Operating Permits and the proposed SIP revisions. The hearing will be held on December 11, 2007, at 1 p.m. at the Department of Environmental Protection, Northeast Regional Office, 2 Public Square, Wilkes-Barre, PA 18711. The public is invited to comment on the proposal. Persons interested in commenting are invited to appear at the public hearing.

Persons wishing to present testimony at the hearing should contact Mark Carmon, Community Relations Coordinator, at (570) 826-2511 at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony will be limited to a maximum of 10 minutes and two written copies of the oral testimony. Each organization is requested to designate one witness to present testimony on its behalf.

Persons with disabilities who wish to attend the hearing and who require an auxiliary aid, service or other accommodation to participate in the proceedings, contact Chris Domashinski of the Department at (570) 826-2511 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

Those unable to attend the hearing, but wish to comment, should provide written comment to Mark Wejksznar, Regional Air Quality Program Manager, 2



Public Square, Wilkes-Barre, PA 18711-0790. Comments should be submitted within 30 days of this publication in the *Pennsylvania Bulletin*.

All the pertinent documents are available for review from 8 a.m. to 4 p.m. in the Department of Environmental Protection, Northeast Regional Office, 2 Public Square, Wilkes-Barre, PA 18711-0790. Appointments for scheduling a review may be made by calling (570) 826-2511.

### OPERATING PERMITS

#### **Intent to Issue Title V Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001–4015) and 25 Pa. Code Chapter 127, Subchapter G.**

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Neal Elko, New Source Review Chief, (570) 826-2531.*

**40-329-001: Transcontinental Gas Pipeline Corp.** (P. O. Box 1396, Houston, TX 77251-1396) for re-activation of an existing internal combustion engine at their facility in Buck Township, **Luzerne County**. The engine has been out of service for maintenance and has been retrofitted with Low Emission Combustion Technology (LEC) to reduce emissions while operational. The engine is manufactured by Cooper-Bessemer, model number 10V-250. The unit has a maximum rated capacity of 23.5 mmBtu/hr and can operate 24 hours/day, 7 days/week. The unit fires on natural gas only. Emissions from other sources at the facility will not increase from the re-activation of this source. NOx emissions will be limited to 2.9 g/hp-hr (21.74 lbs/hr). VOC emissions will not exceed 7.5 lbs/hr. The PM emissions shall not exceed 0.04 gr/dscf, under 25 Pa. Code § 123.13. The SO<sub>2</sub> emissions in the effluent gas shall not exceed 500 ppmvd. The company currently has a Title V Permit 40-00002. The Operating Permit will include testing, monitoring, recordkeeping and reporting requirements designed to keep the sources operating within all applicable air quality requirements. The Plan Approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V Operating Permit through an administrative amendment at a later date.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Barbara Hatch, Facilities Permitting Chief, (412) 442-4174.*

**30-00072: Consol Pennsylvania Coal, Co.** (1800 Washington Road, Pittsburgh, PA 15241-1421) for a renewal of their Title V operating permit. The most significant sources of emissions at the facility are two thermal dryers and the wash plant. Coal handling and processing also contribute to emissions. The facility is subject to Title V requirements because of its potential to emit NOx, SOx, CO, PM and VOC at the Bailey Mine Coal Preparation Plant in Richhill Township, **Greene County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Matthew Williams, Facilities Permitting Chief, (814) 332-6940.*

**16-00124: The Peoples Natural Gas Company—Truittsburg Station** (5093 Truittsburg Road, Fairmont City, PA 16224) The Peoples Natural Gas Company (PNG) air emission sources are three Clark HRA-6 engines, miscellaneous combustion sources, emergency generator, Glycol dehydrator, 65 hp air compressor, storage tanks and a parts washer in Redbank Township, **Clarion County**. The facility is both a field and storage compressor station that pumps natural gas from local production

fields and PNG's transmission system and may discharge into either transmission or local pipelines or into nearby underground storage. The facility is a Title V facility based on the potential to emit NOx and is therefore subject to the Title V Operating Permit requirements adopted in 25 Pa. Code Chapter 127, Subchapter G.

#### **Intent to Issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001–4015) and 25 Pa. Code Chapter 127, Subchapter F.**

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ronald Davis, New Source Review Chief, (717) 705-4702.*

**06-03091: The Rose Corp.** (P. O. Box 15208, Reading, PA 19612-5208) for operation of a steel structure fabrication facility including a painting operation controlled by dry filters in the City of Reading, **Berks County**. This is a renewal of the State-only operating permit issued in 2002.

**06-03117: Custom Processing Services, Inc.** (2 Birchmont Drive, Reading, PA 19606-3266) for operation of a custom milling plant controlled by various fabric collectors in Exeter Township, **Berks County**. The facility is not subject to Title V (State-only operating permit). The foundry has the potential to emit 19 tpy of PM. The permit will include monitoring, work practices, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**21-03022: Hempt Brothers, Inc.** (205 Creek Road, Camp Hill, PA 17011) for operation of a limestone crushing plant in Lower Allen Township, **Cumberland County**. The State-only operating permit will include emission restrictions, work practice standards, and testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements. This is a renewal of the state-only operating permit issued in 2002.

**36-03124: Reading Equipment & Distribution, LLC** (P. O. Box 555, 1363 Bowmansville Road, Bowmansville, PA 17507) for operation of their custom truck assembly plant located in Brecknock Township, **Lancaster County**. This facility has a potential to emit 43 tpy of VOC's. Actual emissions are expected to be 3 tpy of VOC's. The operating permit contains testing, monitoring, recordkeeping and reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Matthew Williams, New Source Review Chief, (814) 332-6940.*

**24-00079: Osram Sylvania Production, Inc.** (835 Washington Street, St. Marys, PA 15857-3605) for operation of the facility's air contamination sources consisting of space heaters, cement mixer, reclaiming bagging, silica coating, SO<sub>2</sub> injection and miscellaneous emissions from dipping and coating for the assembling of incandescent electric light bulbs in the City of Saint Marys, **Elk County**.

**25-00886: Vincent Cross Paving, Inc.** (11620 Lake Pleasant Road, Union City, PA 16438) to re-issue the Synthetic Minor Operating Permit for this asphalt paving material manufacturing plant in Venango Township, **Erie County**. The facility's primary source of emissions is a hot mix asphalt batch plant and associated equipment.

**43-00309: Bucks Fabricating, Inc.** (3547 Perry Highway, Hadley, PA 16130-7237) for issuance of a Natural Minor Operating Permit to operate a facility that fabricates Steel roll off dumpsters in Sandy Creek Township, **Mercer County**. The facility's primary emission sources include surface coating, assembly cleaning, a steam cleaning machine, an emergency generator and propane heaters.

## COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of an application is available for inspection at the district mining office indicated before an application. Where a 401 Water Quality Certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for certification.

Written comments, objections or requests for informal conferences on applications may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the district mining office indicated before an application within 30 days of this publication, or within 30 days

after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34.

Where any of the mining activities listed will have discharges of wastewater to streams, the Department will incorporate NPDES permits into the mining activity permits issued in response to these applications. NPDES permits will contain, at a minimum, technology-based effluent limitations as identified in this notice for the respective coal and noncoal applications. In addition, more restrictive effluent limitations, restrictions on discharge volume or restrictions on the extent of mining which may occur will be incorporated into a mining activity permit, when necessary, for compliance with water quality standards (in accordance with 25 Pa. Code Chapters 93 and 95). Persons or agencies who have requested review of NPDES permit requirements for a particular mining activity within the previously mentioned public comment period will be provided with a 30-day period to review and submit comments on the requirements.

Written comments or objections should contain the name, address and telephone number of the person submitting comments or objections; the application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based. Requests for an informal conference must contain the name, address and telephone number of requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor wishes to have the conference conducted in the locality of the proposed mining activities.

### Coal Applications Received

**Effluent Limits**—The following coal mining applications that include an NPDES permit application will be subject to, at a minimum, the following technology-based effluent limitations for discharges of wastewater to streams:

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Iron (total)	3.0 mg/l	6.0 mg/l	7.0 mg/l
Manganese (total)	2.0 mg/l	4.0 mg/l	5.0 mg/l
Suspended solids	35 mg/l	70 mg/l	90 mg/l
pH <sup>1</sup>		greater than 6.0; less than 9.0	
Alkalinity greater than acidity <sup>1</sup>			

<sup>1</sup>The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to: (1) surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas; active areas disturbed by coal refuse disposal activities; and mined areas backfilled and revegetated; and (2) drainage (resulting from a precipitation event of less than or equal to a 1-year 24-hour event) from coal refuse disposal piles.

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.*

**33-07-11 and NPDES Permit No. PA025458.** Proposal to enter into a Government Financed Reclamation Construction Contract on a 13.9 acre site in Winslow Township, **Jefferson County**. The proposal includes total reclamation of 4.9 acres of abandoned deep mine

subsidence zones that include 1.4 acres of coal removal incidental and necessary to the reclamation activities. Receiving stream: Soldier Run, classified for the following use: CWF. There are no potable surface water intakes within 10 miles downstream. Application received October 19, 2007.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.*

**17070116 and NPDES No. PA0256668.** Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001). Commencement, operation and restoration of a bituminous surface mine in Winslow and Sandy Townships, in **Jefferson and Clearfield Counties**, affecting 552.0 acres. Receiving stream: Sandy Lick Creek, classified for the following use: CWF. There are no potable water supply

intakes within 10 miles downstream. Application received October 12, 2007.

**17040103 and NPDES No. PA0243744.** Hepburnia Coal Company (P. O. Box I, Grampian, PA 16838). Revision of an existing bituminous surface mine to add 3.8 acres in Knox Township, **Clearfield County**, affecting 57.1 acres. Receiving streams: UNT to Little Clearfield Creek to Clearfield Creek to West Branch Susquehanna, classified for the following uses: CWF, WWF. There are no

potable water supply intakes within 10 miles downstream. Application received October 17, 2007.

#### *Noncoal Applications Received*

**Effluent Limits**—The following noncoal mining applications that include an NPDES permit application will be subject to, at a minimum, the following technology-based effluent limitations for discharges of wastewater to streams:

<i>Parameter</i>	<i>30-day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Suspended solids	35 mg/l	70 mg/l	90 mg/l
Alkalinity exceeding acidity* pH*		greater than 6.0; less than 9.0	

\* The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.*

**Permit No. 44070801. Adam K. Russler**, 1057 River Road, McVeytown, PA 17051, commencement, operation and restoration of a small noncoal (industrial minerals) operation in Bratton Township, **Mifflin County**, affecting 5 acres, receiving streams: UNT to Juniata River. Application received October 18, 2007.

**Permit No. 31970301 and NPDES Permit No. PA0234583. U.S. Silica Company**, 12942 Oriskany Road, Mapleton Depot, PA 17052, renewal of NPDES Permit, in Brady Township, **Huntingdon County**. Receiving streams: UNTs to Millcreek and UNT to Saddler Creek classified for the following use: TSF. There are no potable water supply intakes within 10 miles downstream. Application received October 22, 2007.

**Permit No. 32030301 and NPDES Permit No. PA0249408, Britt Energies, Inc.**, 2450 Philadelphia Street, Indiana, PA 15701, renewal of NPDES Permit, Center Township, **Indiana County**. Receiving streams: UNT to Yellow Creek and Tearing Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received October 15, 2007.

**Permit No. 01870301 and NPDES Permit No. PA0593931, Vulcan Construction Materials LP**, 5601 Ironbridge Parkway, Suite 201, Chester, VA 23031, renewal of NPDES Permit, Berwick, Conewago and Oxford Townships, **Adams County**. Receiving streams: Slagle Run and UNT to Slagle Run classified for the following use: WWF. The first downstream potable water supply intake from the point of discharge is New Oxford Municipal Authority and Hanover Municipal Water Works. NPDES renewal application received October 17, 2007.

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.*

**10070304 and NPDES Permit No. PA0258466. Glacial Sand & Gravel Co.** (P. O. Box 1022, Kittanning, PA 16201). Commencement, operation and restoration of a sand and gravel, topsoil and clay operation in Worth

Township, **Butler County** affecting 77.6 acres. Receiving streams: UNTs to Black Run, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Request for a landuse change from cropland, noncommercial forestland, residential, pastureland and unreclaimed mining to unmanaged natural habitat and unmanaged water impoundment. Application received October 22, 2007.

**4950-10070304-E-1. Glacial Sand & Gravel Co.** (P. O. Box 1022, Kittanning, PA 16201). Application for a stream encroachment to permit support facilities within the 100 foot barrier of a UNT 1 to Black Run. Receiving streams: UNTs to Black Run, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received October 22, 2007.

**4950-10070304-E-2. Glacial Sand & Gravel Co.** (P. O. Box 1022, Kittanning, PA 16201). Application for a stream encroachment to place support facilities, including a haul road stream crossing, within and adjacent to UNT 3 to Black Run. Receiving streams: UNTs to Black Run, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received October 22, 2007.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.*

**14900301 and NPDES No. PA0206229. Glenn O. Hawbaker, Inc.** (711 East College Avenue, Bellefonte, PA 16823). Revision of an existing large, noncoal surface mine to modify water handling system in Spring Township, **Centre County**, affecting 282.1 acres. Receiving streams: Logan Branch to Spring Creek to Bald Eagle Creek to West Branch Susquehanna River, classified for the following uses: CWF, WWF. There are no potable water supply intakes within 10 miles downstream. Application received October 2, 2007.

## **FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401**

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as

relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Individuals will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between 8 a.m. and 4 p.m. on each working day at the regional office noted before the application.

Persons with a disability who wish to attend a hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

**Applications received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and requests for certification under section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).**

**WATER OBSTRUCTIONS AND ENCROACHMENTS**

*Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.*

**E09-911. W. V. Group Holdings, LLC, Meetinghouse Business Center**, Suite 120, 120 West Germantown Pike, Plymouth Meeting, PA 19462, Hilltown Township, **Bucks County**, ACOE Philadelphia District.

To enclose and to relocate a UNT to the West Branch Neshaminy Creek (WWF, MF). In the existing condition, the UNT was enclosed in a culvert for a length of 1,442 linear feet within Department of Transportation (Department) right-of-way. This project proposes to extend the enclosed length by 2,766 linear feet upstream of the existing enclosure. Portions of the stream enclosure extension will be within the Department right-of-way. The total proposed length of enclosure will be 4,208 linear feet.

The UNT will also be relocated as part of the proposed stream enclosure. The total length of the proposed stream relocation is 3,212 linear feet. The proposed relocation will route the UNT through a stormwater detention basin (nonjurisdictional dam) and through the Department right-of-way.

This project is associated with the proposed expansion of an existing retail center. The project is located 1,400 feet north of the intersection of Route 309 (County Line Road) and Township Line Road (Telford, PA Quadrangle North: 7.4 inches; West: 2.0 inches).

**E09-923. Camp Nockamixon**, 249 Traugers Crossing Road, Kintnersville, PA 18930, Nockamixon Township, **Bucks County**, ACOE Philadelphia District.

To stabilize and maintain approximately 1,000 linear feet of streambank in and along Gallows Run (CWF). The streambank will be stabilized with R-8 riprap. This project is located approximately 6,500 feet south of the intersection Church Hill Road and SR 611 (Riegelsville, PA USGS Quadrangle N: 6.9 inches; W: 10.6 inches).

*Southcentral Region: Watershed Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.*

**E67-836: Department of Transportation Engineering District 8-0**, 2140 Herr Street, Harrisburg, PA 17103-1699, Conewago and Newberry Townships, **York County**, ACOE Baltimore District.

To: (1) remove an existing five span reinforced concrete arch bridge having a centerline clear span of 388 feet, a width of 24 feet and minimum underclearance of 16.3 feet, (2) to construct and maintain a three span P/S Concrete I-Beam bridge having a centerline clear span of 445 feet, a width of 40 feet, and a minimum underclearance of 30.3 feet carrying SR 0295, Section 001 over Conewago Creek (WWF) (Dover, PA Quadrangle N: 18.5 inches; W: 2.0 inches, Latitude 40° 06' 00.5"; Longitude: 76° 45' 49.8"); (3) construct and maintain five stormwater outfall structures with associated scour protection; (4) to construct and maintain two temporary causeways for the construction and removal of the bridges; (5) to temporarily maintain fill within 0.02 acre of PEM wetland as part of the temporary causeway; (6) to place approximately 17,709 cubic yards of fill within the floodplain of Conewago Creek; and (7) to remove 1,084 cubic yards of fill within the floodplain of Conewago Creek. The purpose of this project to replace the SR 0295, Section 001 Bridge over Conewago Creek in Conewago and Newberry Townships, York County. The project will result in 574 linear feet of temporary perennial stream impacts, 41 linear feet of permanent perennial stream impacts, and 0.02 acre temporary wetland impacts. No wetland replacement is required.

**E67-826: Jerry Watson, Barnhart Drive Associates, LP**, 30 Marianne Drive, York, PA 17406, East Manchester Township, **York County**, ACOE Baltimore District.

To fill 0.26 acre of palustrine emergent wetlands associated to a UNT to Codorus Creek (WWF) at a point just east of Route 181 and south of Manchester Borough (York Haven, PA Quadrangle N: 7.0 inches; W: 14.0 inches, Latitude: 40° 2' 19"; Longitude: 76° 43' 30") in East Manchester Township, York County. The Applicant proposes 0.52 acre of wetland mitigation.

**E07-419: Logan Township**, 800 39th Street, Altoona, PA 16602-1799, Antis Township, **Blair County**, ACOE Baltimore District.

To rehabilitate and maintain the existing Greenwood Wastewater Treatment Facility by converting the existing contact stabilization tank into aerobic digester and replacing/constructing its associated pipings and other related improvements located along the left bank of Little Juniata River (WWF) about 200 feet downstream of Riggles Gap Road bridge (Bellwood, PA Quadrangle N: 13.72 inches; W: 13.92 inches, Latitude: 40° 34' 32"; Longitude: 78° 21' 01") in Antis Township, Blair County.

**E01-271: Steven Bisbee, First Line Development Three, Inc.**, 2121 Old Gatesburg Road, Suite 200, State College, PA 16803, Straban Township, **Adams County**, ACOE Baltimore District.

To construct and maintain: 1) a 15-inch by 58.9-foot long pipe culvert crossing a stream, an 8-inch water line, an 8-inch sanitary sewer line, an 15-inch stormwater pipe, a gas line and cables for television, electric and phone; 2) an 18-inch by 18.2-foot long pipe culvert crossing a stream, an 8-inch water line, an 8-inch sewer line, a gas line and cables for television, phone and electric; 3) an 18-inch by 83.5-foot long pipe culvert crossing a stream, an 8-inch water line, an 8-inch sewer line, an 18-inch stormwater pipe, a gas line and cables for television, phone and electric; 4) a 24-inch by 93.8-foot pipe culvert crossing a stream, an 8-inch water line, an 8-inch sewer line, an 18-inch storm pipe, a gas line and cables for television, phone and electric; 5) an 18-inch by 55.8-foot long pipe culvert crossing a stream impacting 1,015 square feet of wetlands, an 8-inch water line, an 8-inch and a 4-inch sanitary sewer line and cables for television, phone and electric; 6) a 19-foot by 6-foot 3.5-inch by 69-foot steel twin arch culvert impacting 37 square feet of wetlands, an 8-inch water line, a gas line and cables for television, phone and electric; 7) an 18-inch by 91.1-foot long pipe culvert crossing a stream, an 8-inch water line, an 8-inch sewer line, a gas line and cables for television, phone and electric; 8) a 15-inch by 79.9-foot pipe culvert crossing a stream, an 8-inch water line, an 8-inch sewer line, an 18-inch storm pipe, a gas line and cables for television, phone and electric; 9) a 36-inch by 158.6-foot long pipe culvert crossing a stream; 10) three 4-inch and 8-inch sanitary sewer line crossings of streams and wetlands; 11) a wetland road crossing impacting 610 square feet of wetlands due to fill; 12) seven temporary wetland or stream crossings all impacts are to UNTs and wetlands associated with Rock Creek (WWF) (Gettysburg, PA Quadrangle N: 15.2 inches; W: 10.8 inches, Latitude: 39° 49' 60"; Longitude: 77° 12' 02") in Straban Township, Adams County. The proposed project will impact a total of 0.07 acre of wetland. The amount of permanent wetland impact is considered a de minimis impact of 0.015 acre and wetland mitigation is not required.

**E01-276: Evan O. Batts**, 3345 Carlisle Pike, New Oxford, PA 17350, Hamilton Township, **Adams County**, ACOE Baltimore District.

The Applicant proposes to fill and maintain 0.28 acre of PEM wetland in order to construct a roadway and a detention basin for a proposed housing development called Batts Subdivision located on the east side of PA 94 (Hampton, PA Quadrangle N: 0.4 inch; W: 4.2 inches, Latitude: 39° 52' 38"; Longitude: 77° 01' 48") in Hamilton Township, Adams County. The applicant will provide 0.33 acre of replacement wetlands on the property adjacent to the existing wetlands.

**E36-832: East Donegal Township**, Jeffrey Butler, 190 Rock Point Road, Marietta, PA 17547-9786, East Donegal Township, **Lancaster County**, ACOE Baltimore District.

To construct and maintain a 30.0 foot wide by 90.0 foot long concrete boat ramp, a 6.0 foot wide by 110.5 foot long wooden and aluminum boat dock and associated grading for access and parking facilities in the floodways of the Susquehanna River (WWF) and a UNT to Susquehanna River (WWF) (Columbia East, PA Quadrangle N: 10.6 inches; W: 13.3 inches, Latitude: 40° 3' 0"; Longitude: 76° 36' 30") in East Donegal Township, Lancaster County.

**E67-838: Dillsburg Area Authority**, 98 West Church Street, Dillsburg, PA 17019, Monroe Township, **Cumberland County** and Carroll Township, **York County**, ACOE Baltimore District.

To construct and maintain approximately 1,320 feet of 12-inch DIP sanitary sewer within the floodplain, install and maintain an 80-foot 12-inch DIP sanitary sewer stream crossing (Latitude: 40° 8' 51"; Longitude: 77° 1' 40"), and install and maintain a 90-foot 12-inch DIP sanitary sewer wetland crossing temporarily impacting 0.060 acre of PEM wetland (Latitude: 40° 8' 54"; Longitude: 77° 1' 37"). All impacts are associated with the Yellow Breeches Creek (CWF, TSF). The project is bound by Williams Grove Road to the west, a railroad to the south, Lucinda Lane to the east, and West Grantham Road to the north (Mechanicsburg, PA Quadrangle N: 4.1 inches; W: 3.9 inches) in Monroe Township, Cumberland County and Carroll Township, York County.

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.*

**E17-438. Victory Energy Corporation**, 220 Airport Road, Indiana, PA 15701. Natural Gas Collection Pipeline Installation in Bell Township, **Clearfield County**, ACOE Baltimore District (Westover, PA Quadrangle Latitude: 40° 51' 17"; Longitude 78° 41' 41").

The applicant proposes to operate and maintain a two-inch natural gas pipeline that extends approximately 2,000-feet to connect Thompson Wells No. 109 and No. 114. This application is an after-the-fact submission to apply for authorization for the existing natural gas line. Original construction temporarily impacted 0.05 acre in two PEM/PSS wetlands. Onsite wetland restoration of 0.05 acre occurred to mitigate for the unauthorized wetland impact.

*Southwest Region: Watershed Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**3079703-A1. Allegheny Energy Supply, Co.**, 800 Cabin Hill Drive, Greensburg, PA 15601. To expand barge loading/unloading facility in Cumberland and Monongahela Townships, **Greene County**, Pittsburgh ACOE District (Masontown, PA Quadrangle N: 20.9 inches; W: 7.9 inches, Latitude: 39° 51' 54"; Longitude: 79° 55' 53"). To amend permit No. 3079703, the applicant proposes to expand the Hatfield's Ferry barge loading/unloading facility by increasing the mooring to 14.9 acres and facilities area to 5.25 acres at the left bank of Monongahela River (WWF), miles 78.1-79.1. The new structures consist of the retaining wall, and a belt conveyor that transfers limestone from the hopper to a conveyor system on shore for transport limestone across Little Whiteley Creek. Empty barges will be placed back at the mooring at the existing mooring cells. A limestone barge unloading area will be constructed immediately to the north of the northern most existing mooring cell, which requires approximately 0.45 acre facilities area and 18,000 cubic yards of excavation of the river bank.

*Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

Certification request initiated by the Borough of Leighton, P. O. Box 29, Municipal Building, Second and South Streets, Leighton, PA 18235. Beltzville Hydroelectric Project (Federal Energy Regulatory Commission (FERC) Project No. P-12455-003), on Beltzville Lake and Pohopoco Creek, Franklin Township, Carbon County, United States Army Corps of Engineers—Philadelphia District, Leighton Quadrangle N: 17.9 inches; W: 2.3

inches. The Borough of Lehighton proposes to construct hydroelectric facilities with a generating capacity of 2.6 MW on the downstream side of the existing United States Army Corps of Engineers Beltzville Dam. The hydroelectric project would entail the installation of a steel liner in a portion of the existing dam conduit, installation of a closure gate at the end of the dam conduit, and construction of a new penstock, powerhouse, tailrace and 12kV transmission line. The Beltzville Hydroelectric Project documents are available for public review at the following locations: (1) Lehighton Area Memorial Library, 124 North Street, Lehighton, PA 18235; (2) Borough of Lehighton Municipal Building, Second Street and South Street, Lehighton, PA 18235.

### DAM SAFETY

*Central Office: Bureau of Waterways Engineering, 400 Market Street, Floor 3, P. O. Box 8554, Harrisburg, PA 17105-8554.*

**D10-122. Camp Trees Dam. Boys and Girls Club of Western PA**, 5432 Butler Street, Pittsburgh, PA 15201. To modify, operate, and maintain Camp Trees Dam across a tributary to Breakneck Creek (WWF), for the purpose of increasing spillway capacity to pass the 100-year storm event without overtopping. This dam is a previously existing unknown dam used for recreation (Mars, PA Quadrangle N: 9.20 inches; W: 1.4 inches), Adams Township, **Butler County**.

## STORAGE TANKS

### SITE-SPECIFIC INSTALLATION PERMITS

The following Storage Tank Site-Specific Installation Permit application has been received by the Department of Environmental Protection (Department) and is currently under review. Persons wishing to comment on the proposed permit are invited to submit a statement to the Bureau of Waste Management, Division of Storage Tanks, P. O. Box 8763, Harrisburg, PA 17105-8763, within 30 days from the date of this publication. Comments received within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of the comment and the relevant facts upon which it based.

**The following applications have been received for Storage Tank Site-Specific Installation Permits under the authority of the Storage Tank Spill Prevention Act (35 P. S. §§ 6021.304, 6021.504, 6021.1101 and 6021.1102) and under 25 Pa. Code Chapter 245, Subchapter C.**

#### SSIP

<i>Application No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Tank Type</i>	<i>Tank Capacity</i>
07015	American Biofuels I, LLC 271 Saxony Drive Suite 200 Newtown, PA 18940 Attn: John Grabowski	Bucks	Falls Township	8 ASTs storing regulated substances	6,477,500 gallons total

## ACTIONS

### THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT FINAL ACTIONS TAKEN FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

The Department of Environmental Protection (Department) has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and Notices of Intent (NOI) for coverage under general permits. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or amendment
Section III	WQM	Industrial, sewage or animal wastes; discharges to groundwater
Section IV	NPDES	MS4 individual permit
Section V	NPDES	MS4 permit waiver
Section VI	NPDES	Individual permit stormwater construction
Section VII	NPDES	NOI for coverage under NPDES general permits

Sections I—VI contain actions related to industrial, animal or sewage wastes discharges, discharges to groundwater and discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities and concentrated animal feeding operations (CAFOs). Section VII contains notices for parties who have submitted NOIs for coverage under general NPDES permits. The approval for coverage under general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in each general permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational

standards, general requirements, management practices and other conditions set forth in the respective permit. Permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

#### **I. NPDES Renewal Permit Actions**

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0100099 (Sewage)	Harmony Area School District 5239 Ridge Road Westover, PA 16692	Burnside Township Clearfield County	UNT to Beaver Run CWF	Y
PA0112381 (Nonmunicipal)	Columbia Investment Corporation Madison Estates 6009 Columbia Boulevard Bloomsburg, PA 17815	Columbia County Madison Township	Little Fishing Creek 5C	Y

#### **II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Actions**

*Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.*

**NPDES Permit No. PA0054704**, Sewage, **QTown Properties, LLC**, 1620 Wrightstown Road, Newtown, PA 18940. This proposed facility is located in East Rockhill Township, **Bucks County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge treated sewage from the success Rehabilitation Clinic WWTP to a UNT to Tohickon Creek in Watershed 2D.

**NPDES Permit No. PA0025437**, Sewage **North Coventry Municipal Authority**, 1485 East Schuylkill Road, P. O. Box 833, Pottstown, PA 19464-0833. This proposed facility is located in North Coventry Township, **Chester County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge from the Sewage Treatment Plant into the Schuylkill River in Watershed 3D—Manatawny.

**NPDES Permit No. PA0057487**, Sewage, **Oldcastle Lawn & Garden, Inc.**, 500 East Pumping Station Road, Quakertown, PA 18951. This proposed facility is located in Richland Township, **Bucks County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge treated sewage and stormwater into a UNT to Tohickon Creek in Watershed 2D.

**NPDES Permit No. PA0026867, Amendment No. 1**, Sewage, **Abington Township**, 1176 Old York Road, Abington, PA 19001-3713. This proposed facility is located in Upper Dublin Township, **Montgomery County**.

Description of Proposed Action/Activity: Approval for the amendment to discharge an annual average flow of 3.91 mgd of treated sewage from the wastewater treatment plant into Sandy Run in Watershed 3F—Lower Schuylkill River.

**NPDES Permit No. PA0057011**, Sewage, **Little Washington Wastewater Company**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010. This proposed facility is located in Thornbury Township, **Chester County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge treated sewage from Bridlewood Farm STP into Radley Run in Watershed 3H.

*Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.*

**NPDES Permit No. PA0024457, Amendment No. 1**, Sewage, **Halifax Area Water and Sewer Authority**, P. O. Box 443, Halifax, PA 17032. This proposed facility is located in Halifax Borough, **Dauphin County**.

Description of Proposed Action/Activity: Authorization to discharge to the Susquehanna River in Watershed 6-C.

**NPDES Permit No. PA0085235**, Sewage, **DeGrazia, LLC**, 604 Memorial Drive, Fleetwood, PA 19522. This proposed facility is located in Robeson Township, **Berks County**.

Description of Proposed Action/Activity: Authorization to discharge to a UNT to Allegheny Creek in Watershed 3-C.

**NPDES Permit No. PA0009920**, Industrial Waste, **Amergen Energy Company, LLC (Three Mile Island Nuclear Station)**, Route 441 South, P. O. Box 480, Middletown, PA 17057-0480. This proposed facility is located in Londonderry Township, **Dauphin County**.

Description of Proposed Action/Activity: Authorization to discharge to Susquehanna River in Watershed 7-G.

**NPDES Permit No. PA0081850**, Industrial Waste, **Gettysburg Municipal Authority**, Water Treatment Plant, 601 East Middle Street, Gettysburg, PA 17325. This proposed facility is located in Cumberland Township, **Adams County**.

Description of Proposed Action/Activity: Authorization to discharge to a UNT of Marsh Creek in Watershed 13-D.

**NPDES Permit No. PA0260479**, Industrial Waste, **Coaldale Six Mile Run Water Corporation**, P. O. Box 152, Six Mile Run, PA 16679. This proposed facility is located in Broad Top Township, **Bedford County**.

Description of Proposed Action/Activity: Authorization to discharge to a UNT of Six Mile Run in Watershed 11-D.

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**PA0101150 (Denied)**, Industrial Waste, SIC 4952 (Sewerage), **RIP Management Corporation—Quality Inn**, 191 United Road, DuBois, PA 15801. This facility is located in Sandy Township, **Clearfield County**.

Description of Proposed Activity: The applicant applied for renewal of its NPDES permit to discharge treated sewage to Gravel Lick Run from the treatment facility serving the Quality Inn. The renewal application was denied.

*Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**NPDES Permit No. PA0103209**, Sewage, **Wattsburg Area School District**, 10782 Wattsburg Road, Erie, PA 16509. This proposed facility is located in Greene Township, **Erie County**.

Description of Proposed Action/Activity: This application is for a new NPDES permit, for an existing discharge of treated sewage from a sewage treatment plant serving the Wattsburg Area School District Campus.

### **III. WQM Industrial Waste and Sewerage Actions under The Clean Streams Law (35 P. S. §§ 691.1—691.1001)**

*Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.*

**WQM Permit No. 2107406**, Sewage, **Middlesex Township Municipal Authority**, 350 North Middlesex Road, Suite 2, Carlisle, PA 17013. This proposed facility is located in Middlesex Township, **Cumberland County**.

Description of Proposed Action/Activity: Permit approval for the construction/operation of sewerage facilities consisting of 15-inch diameter sewer from MH 503 and MH 501-1 to pump station, pump station with duplex pumps, propane fueled engine for emergency power, comminutor and 4-inch and 12-inch diameter force main to existing MH 403 at South Middlesex Road and I-81.

**WQM Permit No. 2205401 T-1**, Sewage, **Halifax Area Water and Sewer Authority**, P. O. Box 443, Halifax, PA 17032-0043. This proposed facility is located in Halifax Borough, **Dauphin County**.

Description of Proposed Action/Activity: Permit approval for the operation of sewerage facilities consisting of an extended aeration sewage plant rerated as a conventional activated sludge plant.

**WQM Permit No. 2180402, Amendment 06-1**, Sewage, **Hampden Township Sewage Authority**, 230 South Sporting Hill Road, Mechanicsburg, PA 17055. This proposed facility is located in Hampden Township, **Cumberland County**.

Description of Proposed Action/Activity: Amendment approval for the construction/operation of sewerage facilities consisting of an expansion and upgrade of the Roth Lane STP to provide nutrient removal to meet Chesapeake Bay Tributary Strategy and receive wastewater from the abandoned Pinebrook STP by means of a force main from Pump Station No. 1.

**WQM Permit No. 0707403**, Sewage, **Duncansville Municipal Authority**, P. O. Box 502, Duncansville, PA 16635. This proposed facility is located in Duncansville Borough, **Blair County**.

Description of Proposed Action/Activity: Permit approval for the construction of sewerage facilities consisting of: replacement of the existing 12-inch interceptor from Manhole No. 44 to Manhole No. 8 with 18-inch PVC SDR 35 pipe (Area 1), replacement of the existing 12-inch interceptor from Manhole No. RS1 to Manhole 145B with 16-inch ductile iron pipe (Area 2) and replacement of existing 16-inch interceptor from Manhole No. 5A to Manhole No. 5 with 18-inch PVC SCR 35 pipe (Area 3).

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**WQM Permit No. 1407407**, Sewerage 4952, **University Area Joint Authority**, 1576 Spring Valley Road, State College, PA 16801. This proposed facility is located in Patton Township, **Centre County**.

Description of Proposed Action/Activity: A Part II permit has been issued for the construction of a gravity interceptor system consisting of approximately 3,450 linear feet of 18" PVC sewer main. The interceptor will connect the existing sewer main along North Atherton Street to the existing sewer main under the Route 322 By-Pass near the Toftrees exit. The project will also include the abandonment of an existing pump station located at Douglas Drive.

*Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**WQM Permit No. WQG018579**, Sewerage, **Gary J. Van Buren**, 18589 North Norrisville Road, Conneautville, PA 16406-5235. This proposed facility is located in Summerhill Township, **Crawford County**.



Description of Proposed Action/Activity: A single Residence Sewage Treatment Plant.

**WQM Permit No. 3394401**, Sewerage, Amendment No. 1, **Punxsutawney Borough, Mahoning East Civic Center**, 301 East Mahoning Street, Punxsutawney, PA 15767. This proposed facility is located in Punxsutawney Borough, **Jefferson County**.

Description of Proposed Action/Activity: To rerate current STP from 1.6 mgd to 2.4 monthly average flow. Two existing pump stations (effluent and bypass) at the STP will be modified.

**WQM Permit No. WQG018576**, Sewerage, **Cartus Corporation, c/o Caldwell Banker**, 2961 Peach Street, Erie, PA 16508. This proposed facility is located in Fairview Township, **Erie County**.

Description of Proposed Action/Activity: A single Residence Sewage Treatment Plant.

---

#### IV. NPDES Stormwater Discharges from MS4 Permit Actions

---

#### V. NPDES Waiver Stormwater Discharges from MS4 Actions

---

#### VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions

---

*Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

##### NPDES

<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024805011	Ron Del Dev. Company 3242 Farmersville Road Bethlehem, PA 18020	Northampton	Lower Nazareth Township	Monocacy Creek HQ-CWF
PAI024806017	Brian Regan 2019 Majestic Overlook Drive Bethlehem, PA 18015	Northampton	Lower Saucon Township	Cooks Creek EV
PAS10U168R	Jaindl Land Company 3150 Coffeetown Road Orefield, PA 18069	Northampton	Hanover Township	Monocacy Creek HQ-CWF
PAI024807010	Freemansburg Borough 600 Monroe Street Freemansburg, PA 18017	Northampton	Freemansburg Borough	Nancy Run HQ-CWF, MF
PAI024006009	SADG-2, Inc. 100 Colliery Lane Dickson City, PA 18519	Luzerne	White Haven Borough	Lehigh River HQ-CWF
PAI024506010	Bruce and Karen Ecker R. R. 4 Box 5054 Saylorsburg, PA 18353	Monroe	Hamilton Township	Tributary to Lake Creek HQ-CWF
PAS10S056R4	Sanofi Pasteur, Inc. P. O. Box 187 Discovery Drive Swiftwater, PA 18370	Monroe	Pocono Township	Scot Run HQ-CWF
PAI024506001	Sites Unlimited, Inc. P. O. Box 381 East Stroudsburg, PA 18301	Monroe	Pocono Township	Paradise Creek HQ-CWF
PAS10Q216R	Jason and Marcus Danweber 3650 Schoeneck Road Macungie, PA 18062	Lehigh	Lower Macungie Township	Little Lehigh Creek HQ-CWF
PAI023906021	Atlantic American Land Development, Inc. 401 Plymouth Road Suite 500 Plymouth Meeting, PA 19462	Lehigh	Upper Macungie Township	Iron Run HQ-CWF

*Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.*

##### NPDES

<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
*PAI030605002	Manley Partners, LLC 415 Ellis Woods Road Pottstown, PA 19465	Berks	Longswamp Township	Toad Creek HQ-CWF

\* The Department proposed special conditions to protect the spadefoot toad, *Scaphiopus holbrookii*. These conditions provide for protection of approximately 8.8 acres of spadefoot toad habitat, including the watersheds of the breeding ponds used by the spadefoot toad.

## VII. Approvals to Use NPDES and/or Other General Permits

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

### List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From Small Flow Treatment Facilities
PAG-5	General Permit for Discharges From Gasoline Contaminated Groundwater Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges From Combined Sewer Systems (CSO)
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest, or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

#### General Permit Type—PAG-02

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Plumstead Township Bucks County	PAG2000907100	Aquascapes Unlimited, Inc. P. O. Box 364 Piperville, PA 18947	Cabin Run CWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Bensalem Township Bucks County	PAG2000906077	Bruce Dobbs 191 Wedgewood Drive Cinnaminson, NJ 08077	Railroad Creek WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Ivyland Borough Bucks County	PAG2000907050	Fioravanti, Inc. 618 Street Road Southampton, PA 18956	UNT Little Neshaminy Creek WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Warrington Township Bucks County	PAG2000907072	Sophia Development Corporation 1243 Easton Road Suite 200 Warrington, PA 18975	UNT Neshaminy Creek WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Tullytown Borough Bucks County	PAR10D655R	DLC Management Corporation 580 White Plains Road Tarrytown, NY 10561	UNT Delaware River WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
East Caln Township Chester County	PAG2001507041	Old Boot Road Associates, Ltd. 243 Yellow Springs Road Malvern, PA 19355	Valley Creek CWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Caln Township Chester County	PAG2001505038	South Woods, LLC 1195 McDermott Drive West Chester, PA 19380	Beaver Creek TSF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
West Goshen Township Chester County	PAR10G509R	DHLP, Shadeland Woods, Ltd. 435 Devon Park Drive Wayne, PA 19087-1934	East Branch Chester Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Darby Township Delaware County	PAG2002307006	Pyramid Developers 8 Forest Lane Springfield, PA 19064	Hermesprot Run/Darby Creek WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Thornbury Township Delaware County	PAG2002307020	Joseph A. Scandone 20 Creek Road Glen Mills, PA 19312	West Branch Chester Creek TSF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Limerick Township Montgomery County	PAG2004607092	Philly Self Storage, Inc. 1866 East High Street Pottstown, PA 19464	Schuylkill River WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Providence Township Montgomery County	PAG2004607019	Methacton School District 1001 Kriebel Mill Road Norristown, PA 19403	Mine Run TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Conshohocken Borough Montgomery County	PAG2004607080	Washington Street Associates, IV, LP 2701 Renaissance Boulevard 4th Floor King of Prussia, PA 19406	Schuylkill River WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Skippack Township Montgomery County	PAG2004607084	Matt Chowns 2053 Cressman Road Skippack, PA 19474	Skippack Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Providence Township Montgomery County	PAG20046060661	Glaxo Smith Kline 1250 South Collegeville Road Collegeville, PA 19426	Doe Run TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Horsham Township Montgomery County	PAG2004605231	Popper and Deacon 659 Roberts Road Glenside, PA 19002	UNT Park Creek WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Springfield Township Montgomery County	PAG2004607141	Springfield Township School District 1801 Paper Mill Road Edenheim, PA 19038	Oreland Run TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Providence Township Montgomery County	PAG2004607140	Ridgetop Associates, LP 30 Eagleville Road Eagleville, PA 19402	Skippack Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Horsham Township Montgomery County	PAG2004606208	Randa Homes P. O. Box 839 Horsham, PA 19044	UNT Park Creek WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
West Conshohocken Borough Montgomery County	PAG2004607138	PECO Energy Company 2301 Market Street S9-1 Philadelphia, PA 19103	Gulph Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG2015106079	Hedgebank Partners, LP 8327 Germantown Avenue, Rear Philadelphia, PA 19118-3403	Wissahickon Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
North Whitehall Township Lehigh County	PAG2003907003	Peg Dissinger Omega Ridge, LP 1150 South Cedar Crest Boulevard Suite 200 Allentown, PA 18103	Tributary to Coplay Creek CWF	Lehigh County Conservation District (610) 391-9583
City of Harrisburg Dauphin County	PAG2002207049	Joseph V. Link City of Harrisburg 123 Walnut Street Suite 212G Harrisburg, PA 17101-1695	Paxton Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018
Spring Grove Borough York County	PAG2006707034	York County Rail Trail Authority P. O. Box 335 Seven Valleys, PA 17360	UNT to West Branch Cordorus Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
City of York York County	PAG2006707024	York City Sewer Authority Steven Douglas 1701 Blackbridge Road York, PA 17402	Codorus Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Springettsbury Township York County	PAG2006707061	Springettsbury Township John Holman 1501 Mt. Zion Road York, PA 17402	Kreutz Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Springettsbury Township York County	PAG2006707043	York County Rail Trail Authority P. O. Box 335 Seven Valleys, PA 17360	Codorus Creek UNTs to Codorus Creek Main Stem Oil Creek to mouth WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Berwick Township Adams County	PAR100156R	Allen M. Smith D.A.K. Properties, Inc. P. O. Box 407 660 Edgegrove Road Hanover, PA 17331	Pine Run WWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 (717) 334-0636

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Mount Joy Township Adams County	PAR100044R	Richard A. Klein The Links at Gettysburg 601 Mason Dixon Road Gettysburg, PA 17325	Rock Creek WWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 (717) 334-0636
Bern Township Berks County	PAG2000607024	James Strohecker Berks County 633 Court Street 16th Floor Reading, PA 19601	Plum Creek WWF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657 Ext. 201
Bethel Township Tulpehocken Township Berks County	PAG2000607054	Mark Herring MRD Lumber Company 1070 Centre Turnpike Orwigsburg, PA 17961	Little Swatara Creek CWF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657 Ext. 201
City of York York County	PAG2006707024	York City Sewer Authority 1701 Blackbridge Road York, PA 17402	Codorus Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Jackson Township Spring Grove Borough York County	PAG2006707034	York County Rail Trail Authority P. O. Box 335 Seven Valleys, PA 17360	Codorus Creek WB WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Springettsbury Township York County	PAG2006707061	Springettsbury Township 1501 Mt. Zion Road York, PA 17402	Kreutz Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Dover Township York County	PAG2006707067	George Klein MGM Enterprises 1 Waterford Professional Center York, PA 17402	Little Conewago Creek TSF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
York Township York County	PAR10Y615R	S & A Homes 2121 Old Gatesburg Road State College, PA 16803	Mill Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Dover Township York County	PAG2006707021	J. G. Leasing Co. P. O. Box 8 York Haven, 17370	Fox Run TSF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Springettsbury Township York County	PAG2006707058	Harry Fox, Jr. 600 Cold Springs Road Dillsburg, PA 17019	Codorus Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Penn Township York County	PAG2006707057	MMS Management, LLC 731 Fame Avenue Hanover, PA 17331	Gitts Run WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Bradford County South Creek Township	PAG2000807007	Francis Black PA4 Sector 2 Limited Partnership d/b/a Verizon Wireless 175 Calkins Road Rochester, NY 14623	South Creek CWF	Bradford County Conservation District Stoll Natural Resource Center R. R. 5 Box 5030C Towanda, PA 18848 (570) 265-5539 Ext. 6
Lycoming County Fairfield Township	PAG2004107015	Barbara Reinard Susquehanna Gastroenterology 777 Rural Avenue Williamsport, PA 17701	Bennets Run WWF	Lycoming County Conservation District 542 County Farm Road Suite 202 Montoursville, PA 17754 (570) 433-3003
Washington County Peters Township	PAG2006307030	Williamson & Jefferson, Inc. Jeffrey Thomas 212 Sussex Way McMurray, PA 15317	UNT to Peters Creek WWF	Washington County Conservation District (724) 228-6774
Erie County Summit Township	PAG2002507014	Wal-Mart Supercenter Store No. 2278-0 Wal-Mart Real Estate Business Trust 2001 SE 10th Street Bentonville, AR 72712	McGahen Run CWF; MF	Erie County Conservation District (817) 825-6403
Erie County Summit Township	PAG2002507021	Countryside, Maleno Developers, Inc. 2340 West Grandview Boulevard Suite 1 Erie, PA 16506	UNT to Mill Creek Walnut Creek WWF; MF CWF; MF	Erie County Conservation District (817) 825-6403
Lawrence County Union Township	PAG2003707006	Butler County Community College on SR 224 Leo Golba Enterprises 149 Enclave Drive New Castle, PA 16105	UNT Mahoning River WWF	Lawrence Conservation District (724) 652-4512
Mercer County Jackson Township	PAG2004307008	Ernest D. May George J. Howe Company 629 West Main Street Grove City, PA 16127	UNT to Yellow Creek TSF	Mercer County Conservation District (724) 662-2242
Mercer County City of Hermitage	PAG2004307009	Grace Chapel Church Rev. Larry E. Haynes 120 Elm Street Sharon, PA 16146 and Paul E. O'Brien Bedford 1011, Ltd. P. O. Box 68 Brookfield, OH 44403	UNT Shenango River WWF	Mercer County Conservation District (724) 662-2242

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Fayette County Saltlick Township	PAG2092607008	Bureau of Abandoned Mine Reclamation Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119	Champion Creek CWF	Department of Environmental Protection Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119 (814) 472-1800
<i>General Permit Type—PAG-3</i>				
<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Lock Haven Clinton County	PAR404808	American Color & Chemical, LLC Mount Vernan Street P. O. Box 88 Lock Haven, PA 17745	Bald Eagle Creek CWF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3664
City of Beaver Falls Beaver County	PAR216175A1	McDanel Advanced Ceramic Technologies, LLC 510 Ninth Avenue Beaver Falls, PA 15010	Walnut Bottom Run	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
City of Bradford McKean County	PAR328303	Werzalit of America, Inc. P. O. Box 373 Bradford, PA 16701	Tunungwant Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Summerhill Township Crawford County	PAG049379	Gary J. Van Buren 18589 North Norrisville Road Conneautville, PA 16406	UNT to Rundelltown Creek 16-D	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Fairview Township Erie County	PAG049375	Cartus Corporation c/o Caldwell Banker 2961 Peach Street Erie, PA 16508	Lake Erie 15	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Wilmington Township Mercer County	PAG048478	Melinda J. and John P. Holfelder, Jr. 4579 New Castle Road New Wilmington, PA 16142	UNT to West Branch Little Neshannock Creek 20-A	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Hayfield Township Crawford County	PAG048538	Herbert E. Hockenberry 16664 Ridge Road Meadville, PA 16335	UNT to Cussewago Creek 16-D	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
West Salem Township Mercer County	PAG048628	Lenny W. and Mary E. White 194 Coal Hill Road Greenville, PA 16125	UNT of Big Run 20-A	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Stoneboro Borough Mercer County	PAG058378	Dye's Service Station P. O. Box 185 Stoneboro, PA 16153	Sawmill Run 16-G	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Cooper Township Clearfield County	PAG2101707002	BAMR P. O. Box 8476 Harrisburg, PA 17105-8476	UNT to Moshannon Creek CWF	BAMR P. O. Box 8476 Harrisburg, PA 17105-8476 (717) 783-1311

## PUBLIC WATER SUPPLY (PWS) PERMITS

The Department of Environmental Protection has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

### SAFE DRINKING WATER

#### Actions taken under the Pennsylvania Safe Drinking Water Act

*Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Operations Permit** issued to **New Oxford Municipal Authority**, 7010025, Oxford Township, **Adams**

**County** on October 26, 2007, for the operation of facilities approved under Construction Permit No. 0107502 MA.

**Operations Permit** issued to **Bermudian Springs School District**, 7010353, Huntingdon Township, **Adams County** on October 26, 2007, for the operation of facilities approved under Construction Permit No. 0107504.

*Northcentral Region: Water Supply Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**Permit No. 5506501—Operation**, Public Water Supply.

Applicant	<b>McClure Municipal Authority</b>
Township or Borough	McClure Borough
County	<b>Snyder</b>
Responsible Official	Quentin T. Wagner, Chairperson McClure Municipal Authority P. O. Box 138 McClure, PA 17841-0138
Type of Facility	Public Water Supply—Operation
Consulting Engineer	N/A
Permit Issued Date	October 26, 2007
Description of Action	Operation of the new source of supply, Well No. 4 and transmission line to the existing treatment plant.

**Permit No. MA-1793501—Operation**, Public Water Supply.

Applicant	<b>Cooper Township Municipal Authority</b>
Township or Borough	Cooper Township
County	<b>Clearfield</b>
Responsible Official	Sharon Josefikz, Chairperson Cooper Township Municipal Authority P. O. Box 466 Winburne, PA 16879
Type of Facility	Public Water Supply—Operation



Consulting Engineer N/A  
 Permit Issued Date October 30, 2007  
 Description of Action Operation of the Kylerstown finished water storage tank.

### SEWAGE FACILITIES ACT PLAN APPROVAL

#### Plan Approvals Granted under section 5 of the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)

*Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

*Plan Location:* Paul and Maria Geiger.

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Heidelberg Township	6272 Route 309 P. O. Box 218 New Tripoli, PA 18066	Lehigh

*Plan Description:* The approved plan provides for a small flow treatment facility to repair a malfunctioning onlot sewage disposal system, which currently serves the residence. The proposed treatment facility will include a two-compartment septic tank with a Zabel Effluent Filter, an Ecoflo(r) ST-650 peat filter and an ultraviolet radiation disinfection unit. A 4" pvc discharge pipe from the uv unit will discharge the proposed 400 gpd of treated effluent to a UNT of the Jordan Creek. This small flow treatment facility, for which no environmentally sound and cost-effective, nondischarge alternative is available will correct an existing public health or pollution hazard, thereby satisfying the SEJ requirements in 25 Pa. Code § 93.4c(b)(1)(iii). A private well serves the residence. The proposed development is located at 8393 HawkView Road, Heidelberg Township, Lehigh County. Any required NPDES Permits or WQM Permits must be obtained in the name of Paul and Marie Geiger, as appropriate.

*Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.*

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Paradise Township	82 Beaver Creek Road Abbottstown, PA 17301	York County

*Plan Description:* Spring Run Estates, A3-67949-194-3: The approved plan provides for a 49 lot single-family residential subdivision on 84.3341 acres with total proposed sewage flows of 11,000 gpd tributary to the Abbottstown Paradise Joint Sewer Authority Wastewater Treatment Plant. The proposal also includes plans for construction of a new pump station. The proposed subdivision is located at the end of Mary Street between Country Club and Pine Roads, just south of the Lincoln Highway (US Route 30) in Paradise Township, York County. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Windsor Township	1480 Windsor Road P. O. Box 458 Red Lion, PA 17356	York County

*Plan Description:* Dale and Barbara Torbert, A3-67966-409-2/3s: The approved plan provides for a two lot single-family residential subdivision on 10.58 acres with total proposed sewage flows of 400 gpd to be treated by an individual onlot disposal system. The proposed replacement systems for the new building lot and the residual tract are Small Flow Treatment Facilities with two separate discharges to a UNT of Fishing Creek. The proposed subdivision is located on the east and west sides of Gebhart Road, approximately 400 feet north of Craley Road in Windsor Township, York County. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Bethel Township	3015 South Pine Grove Street Fredericksburg, PA 17026	Lebanon

*Plan Description:* The approved plan provides for three separate sewer extensions to serve existing structures in the Monroe Valley Drive, Schadler Apartment and Spruce Street area. This project expands the scope of previously approved planning in Bethel Township. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Logan Township	800 39th Street Altoona, PA 16601	Blair County

*Plan Description:* The approved plan provides for construction of a Small Flow Treatment Facility for the Forsht Estate 2.84 acre property. The proposed sewage flows are 400 gpd with a discharge to swales along Woomer and Grandview Roads then to a UNT of the Little Juniata River. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

### SEWAGE FACILITIES ACT PLAN DISAPPROVAL

#### Plan Disapprovals Granted under section 5 of the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)

*Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
West Earl Township	P. O. Box 787 Brownstown, PA 17508	Lancaster County

*Plan Description:* The plan for the Alvin Zimmerman Subdivision, located on the south side of West Farmersville Road west of the intersection of South Farmersville Road, was disapproved because (the preliminary hydrogeologic study did not adequately characterize the background nitrate-nitrogen concentration for the portion of the study relating to Lot 3. The existing well on

Lot 2, the residual tract, was not sampled even though it is located closer to the proposed lot and would provide a more accurate representation of the groundwater under the site). The module number for this proposal is A3-36959-175-2 and the APS number is 622699.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

### UNDER ACT 2, 1995

#### PREAMBLE 2

**The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a Site-Specific Standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

*Northeast Region: Ronald S. Brezinski, Regional Environmental Cleanup Program Manager; 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**Francis D. Raub Middle School**, Allentown City, **Lehigh County**. Mark T. Smith, Spotts, Stevens, and McCoy, Inc., P.O. Box 6307, 1047 North Park Road, Reading, PA 19610 has submitted a Final Report (on behalf of his client, Allentown City School District, P.O. Box 328, 31 South Penn Street, Allentown, PA 18105-0328), concerning the remediation of soils found to have been impacted by No. 2 fuel oil as a possible result from tank overflow or from product piping overlying the under-

ground storage tank. The report was submitted in order to document attainment of the Statewide Health Standard. A public notice regarding the submittal of the final report was published in *The Morning Call* on October 9, 2007.

*Southcentral Region: Environmental Cleanup Program Manager; 909 Elmerton Avenue, Harrisburg, PA 17110.*

**The Villages at Orchard Hills/Stark Farm**, Southampton Township, **Cumberland County**. RT Environmental Services, Inc., 215 West Church Road, King of Prussia, PA 19406, on behalf of Stark Southampton 145 LLC, Pond Road Center, 4345 Route 9, Suite 28, Freehold, NJ 07728, submitted a Remedial Investigation Report and Cleanup Plan concerning remediation of site soils contaminated with arsenic and pesticides. The report is intended to document remediation of the site to the Statewide Health and Site-Specific Standards, and was grandfathered into the Act 2 program.

*Northcentral Region: Environmental Cleanup Program Manager; 208 West Third Street, Williamsport, PA 17701.*

**National Freight Corp. I-80 MM 179 Accident**, Lamar Township, **Clinton County**, Northridge Group Inc., 1172 Ridge Road, Northumberland, PA 17857 on behalf of National Freight Corp., c/o Bressler's Towing & Recovery, 2994 East Valley Road, Loganton, PA 17747 has submitted a 90 day Final Report concerning remediation of site soil contaminated with diesel fuel. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Trans X Limited I-80 West MM 180 Accident**, Lamar Township, **Clinton County**, Northridge Group Inc., 1172 Ridge Road, Northumberland, PA on behalf of Trans X Limited, 2595 Inkster Boulevard, Winnipeg Manitoba, Canada R3C2E6A 17857 has submitted a Final Report concerning remediation of site soil contaminated with diesel fuel. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Apex Homes, Inc.**, Monroe Township, **Snyder County**, Northridge Group, Inc., 1172 Ridge Road, Northumberland, PA 17857 on behalf of Apex Homes, Inc., 7172 SR 522, Middleburg, PA 17842 has submitted a Final Report concerning remediation of site soil contaminated with diesel fuel. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Former Rhoads Mills Property**, Borough of Selinsgrove, **Snyder County**, Alliance Environmental Services, Inc., 1820 Linglestown Road, Harrisburg, PA 17110 on behalf of Ed Rhoads, 10 Fairway Drive, Selinsgrove, PA 17870 has submitted a combined Remedial Investigation/Final Report concerning remediation of site soil and groundwater contaminated with organophosphorous based agricultural compounds (alachlor and metalochlor), fertilizer components (nitrate/nitrite) and chloride. The report is intended to document remediation of the site to meet the Site-Specific Standard.

*Northwest Region: Environmental Cleanup Program Manager; 230 Chestnut Street, Meadville, PA 16335-3481.*

**U. S. Bronze Foundry & Machine, Inc.—South Parking Lot Site**, Woodcock Township, **Crawford County**. Pneumo Abex, LLC, 80 South Eighth Street, Minneapolis, MN 55402 on behalf of U.S. Bronze Foundry & Machine, Inc., 18649 Brake Shoe Road, Meadville, PA 16335 has submitted a Cleanup Plan concerning remediation of site soils contaminated with lead and chromium.

The report is intended to document remediation of the site to meet the Site-Specific Standard.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

### PREAMBLE 3

**The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a Site-Specific Standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of reuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

*Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Fehl's Home & Garden**, Muhlenberg Township, Berks County. Groundwater Sciences Corporation, 2601

Market Place Street, Suite 310, Harrisburg, PA 17110, on behalf of Fehl's Home & Garden, 5369 Allentown Pike, Temple, PA 19560 and Agway Liquidating Trust, LLC, 5790 Widewaters Parkway, Dewitt, NY 13214, submitted a Final Report concerning the remediation of site soils contaminated with No. 2 fuel oil from removed underground storage tanks. The final report demonstrated attainment of the Residential Statewide Health Standard, and was approved by the Department of Environmental Protection on October 23, 2007.

**PA Army National Guard Tyrone Armory**, Tyrone Borough, Blair County. Converse Consultants, 2738 West College Avenue, State College, PA 16801, on behalf of Department of Military and Veteran Affairs, Environmental Section, Building 0-11, Fort Indiantown Gap, Annville, PA 17003-5002, submitted a Final Report concerning the remediation of site soils contaminated with heating oil. The final report demonstrated attainment of the Residential Statewide Health Standard, and was approved by the Department of Environmental Protection on October 25, 2007.

**Hopeland Post Office/Cloister Flooring, Inc.**, Clay Township, Lancaster County. GemChem, Inc., 53 North Cedar Street, Lititz, PA 17543 on behalf of Marcus Kline, Cloister Flooring, Inc., 749 Rothsville Road, Lititz, PA 17543, submitted a Final Report concerning the remediation of site soils contaminated with leaded and unleaded gasoline. The final report demonstrated attainment of the Residential Statewide Health Standard, and was approved by the Department of Environmental Protection on October 25, 2007.

**WLYH Tower**, West Cornwall Township, Lebanon County. GeoServices, Ltd., 1525 Cedar Cliff Drive, Camp Hill, PA 17011, on behalf of Clear Channel Broadcasting, 3300 North Sixth Street, Harrisburg, PA 17110-1407, submitted a Final Report concerning the remediation of site soils contaminated with No. 2 fuel oil. The final report demonstrated attainment of the Residential Statewide Health Standard, and was approved by the Department of Environmental Protection on October 25, 2007.

*Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**Rosemeier Property-Former Drive Plus Site**, City of Lock Haven, Clinton County. Penn Environmental & Remediation, Inc., 2755 Bergey Road, Hatfield, PA 19440 on behalf of Robert Rosemeier, Drive Plus, 241 South Hanna Street, Lock Haven, PA 17745 has submitted a Final Report concerning remediation of site soil contaminated with benzene, toluene, ethylbenzene, xylenes, naphthalene, isopropyl benzene, benzo(b) fluoranthene, phenanthrene, pyrene and lead and groundwater contaminated with benzene, toluene, ethylbenzene, xylene, naphthalene, isopropyl benzene and lead. The Final Report demonstrated attainment of the Nonresidential Statewide Health Standard for soil and Residential Statewide Health Standard for groundwater and was approved by the Department of Environmental Protection on October 24, 2007.

## AIR QUALITY

**General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Thomas McGinley, New Source Review Chief, (484) 250-5920.*

**09-302-089GP: AE Polysilicon Corp.** (100 Passaic Avenue, Chatham, NJ 07928) on October 25, 2007, to operate a small gas/oil fired combustion Unit in Falls Township, **Bucks County**.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Mark Neal Elko, New Source Review Chief, (570) 826-2531.*

**39-399-061GP2: Buckeye Terminals, LLC** (5 TEK Park, 9999 Hamilton Boulevard, Breinigsville, PA 18031) on October 17, 2007, to install an internal floating roof on tank No. 101 at their site in Lower Macungie Township, **Lehigh County**.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ronald Davis, New Source Review Chief, (717) 705-4702.*

**GP1-36-03131: Lancaster Regional Medical Center** (250 College Avenue, Lancaster, PA 17603) on October 25, 2007, for Small Gas and No. 2 Oil Fired Combustion Units under GP1 in City of Lancaster, **Lancaster County**. This is a renewal of the general permit.

**GP3-06-05087C: Haines & Kibblehouse, Inc.** (P. O. Box 196, 2052 Lucon Road, Skippack, PA 19474) on October 24, 2007, for Portable Nonmetallic Mineral Processing Plants under GP3 in Colebrookdale Township, **Berks County**.

**GP4-1-07-03044: Electric Motor & Supply, Inc.** (1000 50th Street, P. O. Box 152, Altoona, PA 16601) on October 24, 2007, for Burn Off Ovens under GP4 in City of Altoona, **Blair County**. This is a renewal of the general permit.

**GP9-06-05087A: Haines & Kibblehouse, Inc.** (P. O. Box 196, 2052 Lucon Road, Skippack, PA 19474) on October 24, 2007, for Diesel or No. 2 fuel-fired Internal Combustion Engines under GP9 in Colebrookdale Township, **Berks County**.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, William Charlton, New Source Review Chief, (412) 442-4174.*

**GP5-30-00169: Atlas Pipeline Pennsylvania, LLC** (311 Rouser Road, P. O. Box 611, Moon Township, PA 15108) on October 17, 2007, a General Operating Permit to install and operate a Caterpillar Model G3508 633-bhp compressor engine and a Hanover Dehydrator rated at .5 mmBtu/hr at their Ceylon Compressor Station located at Cumberland Township, **Greene County**.

**GP9-26-00567: Shallenberger Construction, Inc.—Industrial Park Site** (2611 Memorial Boulevard, Connellsville, PA, 15425) on October 25, 2007, to operate a diesel-fired engine to provide electric power for an associated portable nonmetallic mineral processing plant in Bullsken Township, **Fayette County**.

**GP3-26-00567: Shallenberger Construction, Inc.—Industrial Park Site** (2611 Memorial Boulevard, Connellsville, PA, 15425) on October 25, 2007, to operate a portable nonmetallic mineral processing plant including a crusher with a water spray system in Bullsken Township, **Fayette County**.

**GP3-26-00566: Shallenberger Construction, Inc.—Mulch Yard Site** (2611 Memorial Boulevard, Connellsville, PA 15425) on October 25, 2007, to operate a portable nonmetallic mineral processing plant including a

crusher with a water spray system located in Connellsville Township, **Fayette County**.

**GP9-26-00566: Shallenberger Construction, Inc.—Mulch Yard Site** (2611 Memorial Boulevard, Connellsville, PA 15425) on October 25, 2007, to operate a diesel-fired engine to provide electric power for an associated portable nonmetallic mineral processing plant in Connellsville Township, **Fayette County**.

**GP9-32-00320A: Penn Run Quarry—No. 2** (456 Weston Road, Penn Run, PA 15765) on October 24, 2007, for diesel engines at the Spruce Mine in Cherryhill Township, **Indiana County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, George Monasky, New Source Review Chief, (814) 332-6940.*

**GP-20-299: Kastle Resources Enterprises, Inc.—Pierpont Compressor Station** (Partch Road and Route 198, Linesville, PA 16424) on October 31, 2007, for a natural gas fired compressor engine BAQ/GPA/GP-5 in **Crawford County**.

**GP-42-197: Atlas Pipeline McKean, LLC—Irishtown Plant** (Route 307, Lewis Run, PA 16738) on October 23, 2007, for a natural gas fired compressor engine BAQ/GPA/GP-5 in **McKean County**.

---

**Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.**

---

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ronald Davis, New Source Review Chief, (717) 705-4702.*

**67-03083B: Utz Quality Foods, Inc.** (900 High Street, Hanover, PA 17331-1639) on October 24, 2007, to construct a continuous snack food fryer controlled by a mist eliminator at their snack food manufacturing facility in Hanover Borough, **York County**.

**67-03115A: Garrod Hydraulics, Inc.** (1050 Locust Point Road, York, PA 17402-8059) on October 22, 2007, to install a chromium electroplating system and emission controls at their existing plant in East Manchester Township, **York County**.

**67-03142A: DCP Midstream, LP** (370 17th Street, Suite 2500, Denver, CO 80202-5604) on October 25, 2007, for construction of a new propane terminal in West Manchester Township, **York County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, George Monasky, New Source Review Chief, (814) 332-6940.*

**37-290D: Ferrotech Corp.** (526 South Jefferson Street, New Castle, PA 16101) on October 26, 2007, to install an additional fabric filter PM control device at their facility site in the City of New Castle, **Lawrence County**. This is not a Title V facility.

---

**Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.**

---

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Thomas McGinley, New Source Review Chief, (484) 250-5920.*

**09-0105B: Naceville Materials** (P. O. Box 196, 2052 Lucon Road, Skippack, PA 19474) on October 23, 2007, to operate a 20,000 gallon storage tank in Springfiled Township, **Bucks County**.

**15-0004D: Alcoa Packaging, LLC** (520 Lincoln Avenue, Downingtown, PA 19335) on October 23, 2007, to operate four film seaming machines in Downingtown Borough, **Chester County**.

**46-0035D: SmithKline Beecham—d/b/a Glaxo-SmithKline** (709 Swedeland Road, King of Prussia, PA 19406) on October 23, 2007, to operate an incinerator in Upper Merion Township, **Montgomery County**.

**09-0175: Hanson Aggregates BMC, Inc.** (1900 Sullivan Trail, Easton, PA 18040) on October 25, 2007, to operate new pit conveyors in Wrightstown Township, **Bucks County**.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ronald Davis, New Source Review Chief, (717) 705-4702.*

**22-05007B: The Harrisburg Authority** (One Keystone Plaza, Suite 104, Harrisburg, PA 17101) on October 22, 2007, to construct the Harrisburg Materials, Energy, Recycling and Recovery Facility, 1670 South 19th Street in the City of Harrisburg, **Dauphin County**. This plan approval was extended.

**67-02004: P. H. Glatfelter Company** (228 South Main Street, Spring Grove, PA 17362) on October 26, 2007, to operate three power boilers controlled by an electrostatic precipitator, a lime calciner controlled by a Venturi scrubber and a softwood fiber line and causticizing area to be controlled by a regenerative thermal oxidizer in Spring Grove Borough, **York County**. This plan approval was extended.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, David Aldenderfer, Program Manager, (570) 327-3637.*

**49-00020B: Truck Accessories Group, Inc.—d/b/a Leer East** (3560 Housels Run Road, Milton, PA 17847) on October 24, 2007, to authorize the use of small quantities of additional VOC-containing and/or VHAPs air pollutant-containing materials in a mold maintenance area and fiberglass reinforced plastic truck cap and tonneau cover assembly and final finish operations in a fiberglass reinforced plastic and aluminum truck cap manufacturing facility in Milton Borough, **Northumberland County**.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, William Charlton, New Source Review Chief, (412) 442-4174.*

**30-00166A: Greene Team Pellet Fuel Co.** (P. O. Box 74, Garards Fort, PA 15334) on November 24, 2007, for Wood Pellet Manufacturing Plant in Greene Township, **Greene County**. This is a Plan Approval Extension.

**65-00966A: Greensburg Thermal, LLC** (755 Oposum Lake Road, Carlisle, PA 17016) on November 24, 2007, for circulating fluidized bed boiler at SCI Greensburg in Hempfield Township, **Westmoreland County**. This is a Plan Approval Extension.

**04-00699F: NGC Industries, Inc.—d/b/a/ National Gypsum Co.** (2001 Rexford Road, Charlotte, NC 28211) on October 24, 2007, for cage mill at Shippingport Plant in Shippingport Borough, **Beaver County**. This is a Plan Approval Extension.

**30-00099E: Allegheny Energy Supply Co., LLC** (800 Cabin Hill Drive, Greensburg, PA 15601) on October 30, 2007, for Coal Fired Steam Electric Generation Facility at Hatfield Power station in Monongahela Township, **Greene County**. This is a Plan Approval Extension.

---

**Title V Operating Permits Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.**

---

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Matthew Williams, Facilities Permitting Chief, (814) 332-6940.*

**10-00028: Armstrong Cement and Supply Corp.** (100 Clearfield Road, Cabot, PA 16023) on October 25, 2007, the Department of Environmental Protection reissued a Title V Permit to operate a cement manufacturing facility in Winfield Township, **Butler County**. The facility's major emission sources include raw material stockpiles, primary and secondary crushers for raw materials, material conveyance systems, cement kilns, finish mills and miscellaneous support operations. The facility is a major facility due to its potential to emit PM, SO<sub>x</sub>, NO<sub>x</sub> and CO.

---

**Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.**

---

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Edward Jurdon Brown, Facilities Permitting Chief, (484) 250-5920.*

**46-00134: The Hill School** (717 East High Street, Pottstown, PA 19464) for a renewal and a Minor Modification to a Non-Title V Facility, State-only, Synthetic Minor Permit in Pottstown Township, **Montgomery County**. The Hill School has several combustion sources for heat, hot water and food preparation. The school has taken fuel throughput restrictions and changed some of the boilers from natural gas to No. 2 fuel oil. Monitoring, recordkeeping and reporting requirements have been added to the permit to address applicable limitations.

**09-00088: Chicago Steel (PA), LLC** (80 Roebling Road, Fairless Hills, PA 19030) on October 25, 2007, for a renewal of a Non-Title V Facility, State-only, Natural Minor Permit in Falls Township, **Bucks County**. Chicago Steel (PA), LLC is a steel manufacturing facility. The sources of emissions are from a steel cleaning process equipped with a fume scrubber. Monitoring, recordkeeping and reporting requirements have been added to the permit to address applicable limitations.

**46-00149: Armstrong-Americas-I, LLC** (250 Hansen Access Road, King of Prussia, PA 19406) On October 30, 2007, for renewal of air quality permit for two boilers in Upper Merion Township, **Montgomery County**. The permit is for a non-Title V (State-only) facility. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ronald Davis, New Source Review Chief, (717) 705-4702.*

**22-03017: Hoover Funeral Homes & Crematory, Inc.** (6011 Linglestown Road, Harrisburg, PA 17112-1208) on October 26, 2007, to operate a human crematory in Lower Paxton Township, **Dauphin County**. This is a renewal of the State-only operating permit.

**28-03027: Kurdziel Industrial Coatings Co.** (9473 Lincoln Way W, Saint Thomas, PA 17252-9710) on October 17, 2007, to operate their finish paint facility in St. Thomas Township, **Franklin County**. This is a renewal of the State-only operating permit.

**28-05020: T. B. Woods, Inc.** (440 North 5th Avenue, Chambersburg, PA 17201-1778) on October 24, 2007, to operate their gray and ductile iron foundry in Chambersburg Borough, **Franklin County**. This is a renewal of the State-only operating permit.

**36-05109: Amerimax Home Products, Inc.** (P. O. Box 4515, Lancaster, PA 17604-4515) on October 24, 2007, to operate their building shapes manufacturing facility in East Hempfield Township, **Lancaster County**. This is a renewal of the State-only operating permit.

**36-05123: Corixa Corp.—d/b/a GlaxoSmithKline Biologicals** (325 North Bridge Street, Marietta, PA 17547-1134) on October 23, 2007, to operate boilers and emergency generators at their biological manufacturing facility in East Donegal Township, **Lancaster County**. This is a renewal of the State-only operating permit.

**38-05004: Kountry Kraft, Inc.** (P. O. Box 570, Newmanstown, PA 17073-0570) on October 25, 2007, to operate their cabinet manufacturing facility in Millcreek Township, **Lebanon County**. This is a renewal of the State-only operating permit.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Barbara Hatch, Facilities Permitting Chief, (412) 442-4174.*

**63-00874: Therm-O-Rock East, Inc.—Donora Plant** (P. O. Box 429, Pine Street, New Eagle, PA 15067) on October 18 2007, for raw material storage silos, blending and bagging stations, product bins and unpaved roadway fugitive emissions at their facility in the Borough of Donora, **Washington County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Matthew Williams, Facilities Permitting Chief, (814) 332-6940.*

**25-00924: Erie Forge & Steel, Inc.** (1341 West 16th Street, Erie, PA 16512-1522) on October 24, 2007, to issue a Natural Minor Permit to operate an iron and steel forging manufacturing facility in City of Erie, **Erie County**. The facility's significant sources include six heat treat furnaces. Previously, the facility was major for Title V due to its' potential to emit of NOx and CO. At present, the facility is natural minor because the emission level of pollutants is below Title V threshold limit after removal of several sources.

**62-00151: CB&I Water Fabrication Facility** (1420 Lexington Avenue, Warren, PA 16365-2850) on October 24, 2007, to issue a Synthetic Minor Operating Permit to their facility in the City of Warren, **Warren County**. The Facility conducts fabrication of steel plate work. The permittee shall maintain the emission of VOC not more than 39.9 tpy based on a 12-month rolling total, maintain the emissions of each individual HAP not more than 9.9 tpy based on a 12-month rolling total and maintain the emissions of total HAPs from the Facility not more than 24.9 tpy based on a 12-month rolling total.

**Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.**

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ronald Davis, New Source Review Chief, (717) 705-4702.*

**21-05013: Fry Communications, Inc.** (101 Fry Drive, Mechanicsburg, PA 17050-2654) on October 25, 2007, to operate their lithographic printing operation at Plant No. 1 in Mechanicsburg Borough, **Cumberland County**. This State-only operating permit has been administratively amended to incorporate plan approval 21-05013B. This is revision No. 1.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Barbara Hatch, Facilities Permitting Chief, (412) 442-4174.*

**11-00051: Quaker Sales Corp.** (P. O. Box 880, Johnstown, PA 15907) on September 24, 2007, a Minor Operating Permit Modification to their State-only Operating Permit for Johnstown plant at West Taylor Township, **Cambria County**.

**30-00089: Dominion Transmission, Inc.** (D. L. Clark Building, Suite 400, 501 Martindale Street, Pittsburgh, PA 15212-5817) on October 17, 2007, for a Department of Environmental Protection initiated Administrative Amendment to amend the performance of monitoring requirements, correct an error in stack test calculation methods and eliminate the requirement to perform monitoring for fuel bound nitrogen at the Crayne Compressor Station located in Franklin Township, **Greene County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Matthew Williams, Facilities Permitting Chief, (814) 332-6940.*

**42-00197: Atlas Pipeline McKean, LLC** (1550 Coraopolis Heights Road, FL 2, Moon Township, PA 15108-2973) for an administrative amendment of the State Operating Permit to change the ownership and to incorporate the conditions of General Permit (GP-5) for Source 110 Caterpillar compressor engine at their Irishtown Plant facility in Lafayette Township, **McKean County**.

## ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

**Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P.S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P.S. §§ 3301—3326); The Clean Streams Law (35 P.S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P.S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P.S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P.S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1003).**

### Coal Permits Actions

*California District Office: 25 Technology Drive, Coal Center, PA 15423, (724) 769-1100.*

**Permit Number: 30831303 and NPDES Permit No. PA0013511, Cumberland Coal Resources, LP, (148**

Portal Road, P. O. Box 1020, Waynesburg PA 15370), to revise the permit for the Cumberland Mine in Center Township, **Greene County** and related NPDES permit to construct and operate the No. 9 Air Shaft. Surface Acres Proposed 56.00. Receiving stream: Maple Run, classified for the following use: HQ-WWF. Application received April 18, 2007. Permit issued October 24, 2007.

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.*

**56010101 and NPDES No. PA0248924. Action Mining, Inc.**, 1117 Shaw Mines Road, Meyersdale, PA 15552, revision of an existing bituminous surface mine to add additional acres for mining in Elk Lick Township, **Somerset County**, affecting 81.0 acres. Receiving streams: UNT to the Casselman River classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received May 31, 2007. Permit issued October 19, 2007.

**56070103 and NPDES No. PA0262366. PBS Coals, Inc.**, P. O. Box 260, Friedens, PA 15541, commencement, operation and restoration of a bituminous surface mine in Stonycreek Township, **Somerset County**, affecting 338.3 acres. Receiving streams: Schrock Run and UNTs to Schrock Run classified for the following uses: CWF. The application is proposing to temporarily close a portion of T-695 during mining. A stream variance is being requested for a UNT to Schrock Run. This variance request is to mine through the headwaters of this stream and reconstruct the stream channel postmining. There are no potable water supply intakes within 10 miles downstream. Application received March 2, 2007. Permit issued October 23, 2007.

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.*

**33070103 and NPDES Permit No. PA0258334. Reichard Contracting, Inc.** (212 Olean Trail, New Bethlehem, PA 16242) Commencement, operation and restoration of a bituminous strip operation in Ringgold and Redbank Townships, **Jefferson and Armstrong Counties** affecting 165.5 acres. Receiving streams: UNTs to Painter Run. Application received April 27, 2007. Permit issued October 17, 2007.

**1542-33070103-E-1. Reichard Contracting, Inc.** (212 Olean Trail, New Bethlehem, PA 16242). Application for a stream encroachment to conduct mining activities within 100 feet of UNT No. 8 to Painter Run in Ringgold and Redbank Townships, **Jefferson and Armstrong Counties**. Receiving streams: UNTs to Painter Run. Application received April 27, 2007. Permit issued October 17, 2007.

**33960109 and NPDES Permit No. PA0227331. TDK Coal Sales, Incorporated** (P. O. Box 259, Brockway, PA 15824) Renewal of an existing bituminous strip and auger operation in Union Township, **Jefferson County** affecting 157.4 acres. Receiving streams: UNT to Little Mill Creek. This renewal is issued for reclamation only. Application received August 29, 2007. Permit issued October 23, 2007.

**33030106 and NPDES Permit No. PA0242373. Falls Creek Energy Co., Inc.** (568 Silvis Hollow Road, Kittanning, PA 16201). Renewal of an existing bituminous strip and auger operation in Porter Township, **Jefferson County** affecting 163.5 acres. Receiving streams: Pine Run. Application received July 10, 2007. Permit issued October 23, 2007.

#### *Noncoal Permits Actions*

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.*

**58070846. Stephen W. Major**, (R. R. 3, Box 3944, Montrose, PA 18801), commencement, operation and restoration of a quarry operation in Bridgewater Township, **Susquehanna County** affecting 5.0 acres, receiving stream: none. Application received July 13, 2007. Permit issued October 22, 2007.

**8275SM2A3C5 and NPDES Permit No. PA0593885. Martin Limestone, Inc.**, (P. O. Box 550, Blue Ball, PA 17506), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Earl and Ephrata Townships, **Lancaster County**, receiving stream: Conestoga Creek and UNT to Conestoga Creek. Application received August 31, 2007. Renewal issued October 23, 2007.

**7775SM8C4 and NPDES Permit No. PA0595748. Dyer Quarry, Inc.**, (P. O. Box 188, Birdsboro, PA 19508), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Robeson Township, **Berks County**, receiving stream: Indian Corn Creek and Seidel Creek. Application received September 4, 2007. Renewal issued October 23, 2007.

**7775SM9A2C8 and NPDES Permit No. PA0595659. Glen-Gery Corporation**, (P. O. Box 7001, Wyomissing, PA 19610), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Perry Township, **Berks County**, receiving stream: UNT to Schuylkill River. Application received September 4, 2007. Renewal issued October 23, 2007.

**8274SM6A2C6 and NPDES Permit No. PA0595349. Binkley & Ober, Inc.**, (P. O. Box 7, East Petersburg, PA 17520), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in East Hempfield Township, **Lancaster County**, receiving stream: UNT to Little Conestoga Creek. Application received September 6, 2007. Renewal issued October 25, 2007.

**7876SM1C5 and NPDES Permit No. PA0595721. ESSROC Cement Corp.**, (Route 248 and Easton Road, Nazareth, PA 18064), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Whitehall Township, **Lehigh County**, receiving stream: Coplay Creek. Application received September 10, 2007. Renewal issued October 25, 2007.

**64910303C and NPDES Permit No. PA0595462. Reading Materials, Inc.**, (P. O. Box 1467, Skippack, PA 19474), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Palmyra Township, **Wayne County**, receiving stream: tributary to Lake Wallenpaupack. Application received September 4, 2007. Renewal issued October 26, 2007.

#### **ACTIONS ON BLASTING ACTIVITY APPLICATIONS**

**Actions on applications under the Explosives Acts of 1937 and 1957 (43 P.S. §§ 151–161); and 25 Pa. Code § 211.124 (relating to blasting activity permits). Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.**

#### *Blasting Permits Actions*

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.*



**28074152. David H. Martin Excavating, Inc.**, 4961 Cumberland Highway, Chambersburg, PA 17201-9655, blasting activity permit issued for commercial development in Chambersburg Borough, **Franklin County**. Blasting activity permit end date is December 17, 2008. Permit issued October 19, 2007.

**21074167. Dyno Nobel, Inc.**, 1320 Galiffa Drive, Donora, PA 15033, blasting activity permit issued for single development in Monroe Township, **Cumberland County**. Blasting activity permit end date is January 30, 2008. Permit issued October 19, 2007.

**44074103. Douglas Explosives**, P. O. Box 77, Philipsburg, PA 16866-0077, blasting activity permit issued for commercial development in Granville Township, **Mifflin County**. Blasting activity permit end date is October 30, 2008. Permit issued October 19, 2007.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.*

**360741109. Keystone Blasting Service**, (381 Reifsnyder Road, Lititz, PA 17543), construction blasting for Flyaway Industrial Park in Manheim Township, **Lancaster County** with an expiration date of December 30, 2007. Permit issued October 3, 2007.

**51074002. Controlled Demolition, Inc.** (2737 Merymans Mill Road, Phoenix, MD 21131), demolition blasting at Tidewater Grain Elevator Implosion in the City of Philadelphia, **Philadelphia County** with an expiration date of November 21, 2007. Permit issued October 22, 2007.

**06074128. Warren's Excavating & Drilling, Inc.** (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for Franklin Street Improvements in West Reading Borough, **Berks County** with an expiration date of October 15, 2008. Permit issued October 22, 2007.

**13074107. Explosive Services, Inc.** (7 Pine Street, Bethany, PA 18431), construction blasting for Boulder Creek Resort in Kidder Township, **Carbon County** with an expiration date of October 31, 2008. Permit issued October 22, 2007.

**52074130. Explosive Services, Inc.** (7 Pine Street, Bethany, PA 18431), construction blasting for Saw Creek Estates in Lehman and Middle Smithfield Townships, **Pike and Monroe Counties** with an expiration date of October 31, 2008. Permit issued October 22, 2007.

**360741115. Keystone Blasting Service** (381 Reifsnyder Road, Lititz, PA 17543), construction blasting for Snyder Road utilities in Manheim Township, **Lancaster County** with an expiration date of November 30, 2007. Permit issued October 23, 2007.

**38074122. Abel Construction Co., Inc.** (P. O. Box 476, Mountville, PA 17554), construction blasting for Arbor Greene Phase 4 in North and South Londonderry Townships, **Lebanon County** with an expiration date of October 26, 2008. Permit issued October 23, 2007.

**38074123. Warren's Excavating & Drilling, Inc.** (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for Schaefferstown Fire Company in Heidelberg Township, **Lebanon County** with an expiration date of October 15, 2008. Permit issued October 23, 2007.

**38074124. Warren's Excavating & Drilling, Inc.** (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for utilities on North Londonderry Square in North Londonderry Township, **Lebanon County** with an expiration date of October 15, 2008. Permit issued October 23, 2007.

**45074154. Warren's Excavating & Drilling, Inc.** (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for Mountain View Development in Stroud Township, **Monroe County** with an expiration date of October 1, 2008. Permit issued October 23, 2007.

**46074123. Warren's Excavating & Drilling, Inc.** (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for Shannon Rose Estates in New Hanover Township, **Montgomery County** with an expiration date of October 15, 2008. Permit issued October 23, 2007.

**48074116. Warren's Excavating & Drilling, Inc.** (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for Hanover Housing Development in Hanover Township, **Northampton County** with an expiration date of October 15, 2008. Permit issued October 23, 2007.

**67074149. TJ Angelozzi, Inc.** (7845 Kabik Court, Woodbine, MD 21797), construction blasting for Penn's Preserve in York Township, **York County** with an expiration date of October 22, 2008. Permit issued October 23, 2007.

**46074003. Explo-Craft, Inc.** (P. O. Box 1332, West Chester, PA 19380), construction blasting at Snyder Square Shopping Center in Hatfield Township, **Montgomery County** with an expiration date of December 31, 2007. Permit issued October 24, 2007.

## FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once.



Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

**Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and The Clean Streams Law (35 §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).**

*Permits, Environmental Assessments and 401 Water Quality Certifications Issued*

#### WATER OBSTRUCTIONS AND ENCROACHMENTS

*Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.*

**E15-752. County of Chester**, 14 East Biddle Street, 1st Floor, P. O. Box 2748, West Chester, PA 19380-2748, East Pikeland Township, **Chester County**, ACOE Philadelphia District.

To remove the existing Pickering Road Bridge, a 61.4-foot long, 14.5-foot wide structure and to replace it with a 62-foot long, 28-foot wide structure with similar vertical and horizontal alignments across Pickering Creek (HQ-TSF). The site is located approximately 100 feet north-west of intersection of Pickering Creek and Church Roads (Malvern, PA USGS Quadrangle N: 19.35 inches; W: 13.15 inches).

The issuance of this permit also constitutes approval of a Water Quality Certification under Section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. 1341(a)).

**E46-1008. Montgomery Office Park, LLC**, 301 Oxford Valley Road, Suite 201A, Yardley, PA 19067, Montgomery Township, **Montgomery County**, ACOE Philadelphia District.

To perform the following water obstruction and encroachment activities associated with associated with the Montgomery Office Park Pond Project, consisting of four two-story buildings with associated parking facilities:

1. To excavate a stormwater basin and impact 0.09 acre of wetland (PEM) which will serve as a stormwater management facility.
2. To modify an existing 36-inch RCP stream enclosure that conveys flow under Horsham Road (SR 0463) by removing and replacing a segment and extending the pipe in the upstream direction to tie into Junction Box A1 of the basin noted near the Horsham Road/Stump Road intersection. The work will impact 185 linear feet of watercourse of which 145 feet is currently in a pipe.
3. To place fill within 62 linear feet of stream channel to facilitate the construction of associated parking area.

The applicant also requests an Environmental Assessment Approval for impacts associated with the construction an on-stream Nonjurisdictional Dam and its appurtenant works that will impact 150 linear feet of watercourse, which will serve as a stormwater management facility.

The site is located at the intersection of Stump and Horsham Roads in Montgomeryville Township, Montgomery County (Ambler, PA Quadrangle N: 19.82 inches; W: 13.77 inches).

The issuance of this permit also constitutes approval of a Water Quality Certification under Section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. 1341(a)).

*Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.*

**E31-212: Joseph H. and Phyllis Shearer and R. Scott and Karen Shearer**, 17 Arentzen Boulevard, Suite 206, Charleroi, PA 15022, Franklin Township, **Huntingdon County**, ACOE Baltimore District

To remove the existing vacation home and then construct and maintain a 58-foot wide by 60-foot long home within the 100-year floodway and along the left bank of Spruce Creek (HQ-CWF). The project is located in Franklinville village (Franklinville, PA Quadrangle N: 3.4 inches; W: 12.75 inches, Latitude: 40° 38' 37"; Longitude: 78° 05' 31") in Franklin Township, Huntingdon County.

**E36-828: Department of Transportation Engineering District 6-0**, 7000 Geerdes Boulevard, King of Prussia, PA 19406-1525, Sadsbury Township, **Lancaster County** and West Sadsbury Township, **Chester County**, ACOE Baltimore District

To widen SR 0041, Section ZOK between Siddonsburg Road and Zook Road involving the following activities:

1. To construct and maintain a stream enclosure involving the connection of two existing 70-foot long, 36-inch RCP's with a 22-foot section and a 15-foot extension upstream in a UNT to Pine Creek (MF/TSF) at the Siddonsburg Road and SR 0041 intersection (Parkesburg, PA Quadrangle N: 15.84 inches; W: 16.35 inches, Latitude: 39° 57' 44"; Longitude: 75° 59' 30"). This will result in 178 feet of cumulative impact to an ephemeral stream.
2. To remove an existing reinforced concrete T-beam bridge having a total span of 24.13 feet, a width of 38.14 feet and a minimum underclearance of 11.75 feet and to construct and maintain a precast spread box beam bridge having a total clear span of 65.0 feet, a width of 54.0 feet and a minimum underclearance of 10.25 feet carrying SR 0041 over Pine Creek (MF/TSF) (Parkesburg, PA Quadrangle N: 15.74 inches W: 15.88 inches Latitude: 39° 57' 42" Longitude: 75° 59' 18").
3. To relocate 71 linear feet of a UNT to Pine Creek (MF/TSF) (Parkesburg, PA Quadrangle N: 15.79 inches; W: 15.84 inches, Latitude: 39° 57' 43"; Longitude: 75° 59' 17").
4. To relocate 170 linear feet of a UNT to Pine Creek (MF/TSF) and enclose and maintain 96 feet of the tributary in a 30-inch RCP (Parkesburg, PA Quadrangle N: 15.89 inches; W: 16.35 inches, Latitude: 39° 57' 45"; Longitude: 75° 59' 30"). The channel will increase in length by 183 linear feet.
5. To place and maintain fill in four exceptional value PEM wetlands involving:
  - a. 0.01 acre permanent and 0.04 acre temporary impact (Parkesburg, PA Quadrangle N: 15.74 inches; W: 15.80 inches, Latitude: 39° 57' 42"; Longitude: 75° 59' 16").
  - b. 0.08 acre permanent impact (Parkesburg, PA Quadrangle N: 15.79 inches; W: 15.76 inches, Latitude: 39° 57' 43"; Longitude: 75° 59' 15").
  - c. 0.14 acre permanent impact (Parkesburg, PA Quadrangle N: 15.84 inches; W: 16.39 inches, Latitude: 39° 57' 44"; Longitude: 75° 59' 31").

d. 0.0001 ac permanent impact (Parkesburg, PA Quadrangle N: 15.69 inches; W: 15.76 inches, Latitude: 39° 57' 41"; Longitude: 75° 59' 15").

The applicant is required to replace a minimum of 0.23 acre of wetland and has proposed to create 0.32 acre of wetland near the Zook Road and SR 0041 intersection (Parkesburg, PA Quadrangle N: 15.69 inches; W: 15.76 inches, Latitude: 39° 57' 41"; Longitude: 75° 59' 15").

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.*

**E17-436. Emigh Run-Lakeside Watershed Association**, P. O. Box 204, Morrisdale, PA 16858. Emigh Run No. 13 Acid Mine Drainage Treatment Project in Morris Township, **Clearfield County**, ACOE Baltimore District (Wallacetown, PA Quadrangle Latitude: 40° 56' 58.81"; Longitude: 78° 15' 57.09").

The applicant proposed to construct, operate and maintain a passive acid mine drainage treatment system requiring a rock outfall along Emigh Run, minor road crossing Emigh Run, fill in wetland associated to Emigh Run and rock outfall along a UNT to Emigh Run for the abatement of acid mine drainage pollution. The project is located along the southern right-of-way of SR 2033 approximately 2.3 stream miles upstream of the Emigh Run Reservoir. The Emigh Run No. 13 Acid Mine Drainage Treatment Project permanently impacts 0.06-acre of wetland, for which the Department of Environmental Protection has determined that the water quality improvements from Emigh Run No. 13 acid mine drainage treatment system serves to mitigate those permanent wetland impacts.

*Southwest Region: Watershed Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**E32-482. Indiana County Commissioners**, 825 Philadelphia Street, Indiana, PA 15701. To construct and maintain two pedestrian/bicycle bridges on Blacklick Creek (TSF) in East Wheatfield and Buffington Townships, **Indiana County**, Pittsburgh ACOE District (New Florence, PA Quadrangle N: 17.96 inches; W: 1.24 inches, Latitude: 40° 28' 26"; Longitude: 79° 0' 32"). To construct and maintain two pedestrian/bicycle bridges on Blacklick Creek (TSF). The first is a single span simply supported truss bridge with a span of approximately 115' and an underclearance of approximately 21'. The second is a three span simply supported truss bridge with each span

having a length of approximately 70', for a total span of 220.5' and an underclearance of approximately 19'. Both spans are constructed on existing abutments and the second structure will be supported on existing piers, which will be modified to accommodate the new spans. Temporary ford crossings to access the existing piers may be required and are also included. The new bridges are being constructed for the purpose of improving a pedestrian/bicycle trail. The first span is located approximately 1/2 mile north of Dilltown and the second is located approximately 3/4 mile northwest of Dilltown.

*Northwest Region: Watershed Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**E10-434. Pilot Travel Center, LLC**, 5508 Lonas Road, Knoxville, TN 37909. SF Pilot Travel Center on SR 422, in Muddycreek Township, **Butler County**, ACOE Pittsburgh District (Portersville, PA Quadrangle N: 40° 57' 55"; W: 80° 08' 17").

To fill a total of 0.33 acre of wetland for the development of a SF Pilot Travel Center including automobile and truck fueling, restaurant, access roads, parking utilities and associated grading north of SR 422 west of I-79. Project includes on site creation of 0.36 acre of replacement wetland.

**E42-330. Hancock Timberland VII QRS Trust**, P. O. Box 3304, Smethport, PA 16749-0604. Hancock Timberland VII QRS Trust Twomile Creek Stream Crossing, in Annin Township, **McKean County**, ACOE Pittsburgh District (Roulette, PA Quadrangle N: 41° 52' 1"; W: 78° 14' 50.5").

To operate and maintain a 50-foot long, 48-inch diameter plastic pipe culvert in Twomile Creek (CWF) on an access road serving as access for timber management extending northwest from Two Mile Road approximately 3.5 miles east of SR 155.

**E42-332. Atlas Resources, Inc.**, 101 McQuiston Drive, Jackson Center, PA 16133. Willow Creek Gas Pipeline Crossing, in Corydon Township, **McKean County**, ACOE Pittsburgh District (Stickney, PA Quadrangle N: 41° 57' 35.9"; W: 78° 47' 54").

To install by directional boring and maintain a 4-inch diameter plastic natural gas pipeline across Willow Creek (HQ-CWF, Wild Trout) and adjoining Exceptional Value wetland following an existing gravel roadway extending south from SR 346 approximately 4.8 miles east of SR 321.

## STORAGE TANKS

### SITE-SPECIFIC INSTALLATION PERMITS

The following Storage Tank Site-Specific Installation Permits, under the authority of the Storage Tank Spill Prevention Act (35 P. S. §§ 6021.304, 6021.504, 6021.1101 and 6021.1102) and under 25 Pa. Code Chapter 245, Subchapter C, have been issued by the Bureau of Waste Management, Director, P. O. Box 8763, Harrisburg, PA 17105-8763.

SSIP Permit No.	Applicant Name & Address	County	Municipality	Tank Type	Tank Capacity
07-09-007	Advanced Lubrication Specialties 420 Imperial Court Bensalem, PA 19020 Attn: Michael Cimino	Bucks	Bensalem Township	9 ASTs storing petroleum products	315,000 gallons total

<i>SSIP Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Tank Type</i>	<i>Tank Capacity</i>
07-22-005	Eldorado Properties Corporation P. O. Box 2621 Harrisburg, PA 17105-2621 Attn: Stephen Carten	Dauphin	Lower Swatara Township	1 AST storing petroleum product	2,106,000 gallons

## SPECIAL NOTICES

### HAZARDOUS SITES CLEANUP UNDER THE ACT OF OCTOBER 18, 1988

#### Public Notice of Proposed Consent Order and Agreement Department of Environmental Protection Mays Hickman Road Site Robinson Township, Allegheny County

Under section 1113 of the Hazardous Sites Cleanup Act (35 P. S. § 6020.1113) (HSCA), notice is hereby given that the Department of Environmental Protection (Department) has entered into a Consent Order and Agreement (CO&A) with Mays Properties, Inc. (MPI) concerning the Department's cleanup of the Mays Hickman Road Site (Site). The proposed CO&A resolves the HSCA owner-operator liability of MPI for reimbursement of costs expended by the Department in investigating and remediating the Site, a property of approximately 8 acres located in Robinson Township, Allegheny County (Site).

Beginning in the mid-1950s and until at least 1964, Jake Phillips, Sr. hauled to the Site carbon sweepings dross and various industrial waste from the Pittsburgh Coke and Chemical facility (mid-1950s through 1959) and from the Pittsburgh Activated Carbon facility (1960 through 1964), both located on Neville Island. In September 1959, Jake Phillips, Sr. incorporated his hauling business as the Phillips Contracting Company, Inc. (PCC). The hauling from the two facilities conducted by Jake Phillips, Sr. and by PCC resulted in disposal at the Site of about 1,200 tons of carbon sweepings and industrial waste, including eight leaking 55-gallon drums.

A 1993 Environmental Protection Agency investigation and 1994 and 2001 investigations by the Department found contamination in the form of various volatile and semi-volatile organics at the Site. In 2003, to address this contamination, the Department conducted an interim response under section 501(a) of HSCA (35 P. S. § 6020.501(a)). The Department's interim response entailed the removal and proper disposal of all Site waste. As a result of its Site investigation and its interim response, the Department incurred costs in the amount of \$1,385,368.

The Department has previously settled its costs claims against Wilmington Securities, Inc., which inherited HSCA generator liability from its corporate predecessor, Pittsburgh Coke and Chemical; against Earlin Equipment Company, Inc. (Earlin), which inherited HSCA transporter liability from its corporate predecessor, PCC; and against Calgon Carbon Corporation, which inherited HSCA generator liability from its corporate predecessor, Pittsburgh Activated Carbon.

The Department's proposed CO&A with MPI calls for MPI's filing with the Allegheny County, Pennsylvania Recorder of Deeds a consensual lien in favor of the Department in the amount of \$450,000, which amount

represents MPI's reimbursement to the Department of outstanding costs of \$325,368 incurred at the Site, together with payment of accrued interest. The lien will attach to all real and personal property and any other assets owned by MPI. The lien will remain in place until MPI has made payment in full to the Department in the amount of \$450,000.

The CO&A additionally requires MPI to record with the Allegheny County Recorder of Deeds an acknowledgement of the disposal of hazardous substances and hazardous waste at the Site and a notice of property use restrictions prohibiting any use of the Site that is inconsistent with or that will negatively impact any of the investigative or remedial measures undertaken by the Department.

The specific terms of this settlement are set forth in the CO&A between the Department and MPI. Copies of the CO&A are available for inspection at the Department's Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222.

The Department will receive and consider comments relating to the CO&A for 60 days from the date of this Public Notice. The Department has the right to withdraw its consent to the CO&A if comments concerning the CO & A disclose facts or considerations which indicate that the CO&A is inappropriate, improper, or not in the public interest. After the public comment period, the Department's settlement with MPI shall be effective upon the date that the Department notifies MPI, in writing, that this CO&A is final and effective in its present form and that the Department has filed a response to significant written comments to the CO&A or that no such comments were received.

Comments should be submitted, in writing, to Terry Goodwald, Department of Environmental Protection, Hazardous Sites Cleanup, 400 Waterfront Drive, Pittsburgh, PA 15222. Further information may be obtained by contacting Terry Goodwald at (412) 442-4000. TDD users should contact the Department through the Pennsylvania Relay Services at (800) 645-5984.

[Pa.B. Doc. No. 07-2064. Filed for public inspection November 9, 2007, 9:00 a.m.]

#### Availability of Technical Guidance

Technical guidance documents are available on the Department of Environmental Protection's (Department) website at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (DEP Keywords: Technical Guidance). The "Final Documents" heading is the link to a menu of the various Department bureaus where each bureau's final technical guidance documents are posted. The "Draft Technical Guidance" heading is the link to the Department's draft technical guidance documents.

The Department will continue to revise its nonregulatory documents, as necessary, throughout 2007.

### *Ordering Paper Copies of Department Technical Guidance*

The Department encourages the use of the Internet to view and download technical guidance documents. When this option is not available, persons can order a paper copy of any of the Department's draft or final technical guidance documents by contacting the Department at (717) 783-8727.

In addition, bound copies of some of the Department's documents are available as Department publications. Check with the appropriate bureau for more information about the availability of a particular document as a publication.

### *Changes to Technical Guidance Documents*

Following is the current list of recent changes. Persons who have questions or comments about a particular document should call the contact person whose name and phone number is listed with each document.

#### *Draft Technical Guidance*

DEP ID: 257-4000-001. Title: Storage Tank Product Delivery Prohibition. Description: This guidance document describes the circumstances under which the Department may impose storage tank product delivery prohibitions in conjunction with the Department's authority to suspend, revoke or deny an operating permit, as authorized by the Storage Tank and Spill Prevention Act (35 P. S. §§ 6021.101—6021.2104) and 25 Pa. Code Chapter 245 (relating to administration of the storage tank and spill prevention program). The document also identifies the procedures the Department will use to notify the tank owner/operator and product distributors that such a delivery prohibition is in effect. Delivery prohibition includes the prohibition of delivery, deposit or acceptance of product into a storage tank that has been determined to be ineligible for receiving product. Written Comments: The Department is seeking comments on draft technical guidance No. 257-4000-001. Interested persons may submit written comments on this draft technical guidance document by December 10, 2007. Comments submitted by facsimile will not be accepted. The Department will accept comments submitted by e-mail. A return name and address must be included in each e-mail transmission. Written comments should be submitted to Charles Swokel, Department of Environmental Protection, Bureau of Waste Management, Division of Storage Tanks, Rachel Carson State Office Building, P. O. Box 8763, Harrisburg, PA 17105-8763 or cswokel@state.pa.us. Contact: Questions regarding the technical guidance document should be directed to Charles Swokel, Bureau of Waste Management, Division of Storage Tanks, (717) 772-5806 or cswokel@state.pa.us. Effective Date: Upon publication of notice as final in the *Pennsylvania Bulletin*.

KATHLEEN A. MCGINTY,  
Secretary

[Pa.B. Doc. No. 07-2065. Filed for public inspection November 9, 2007, 9:00 a.m.]

### **Bid Opportunities**

**OSM 04(1820)101.1, Abandoned Mine Reclamation Project, Darlington Lake Northwest, Darlington Township, Beaver County.** The principal items of work and approximate quantities include 1,136,000 cubic yards of grading, 2,130 square yards of rock lining, 10 pounds of wetland seed mix, 107 acres of seeding and planting 6,800

trees. This project issues on November 9, 2007, and bids will be opened on December 6, 2007, at 2 p.m. Bid documents cost \$10 per set and will not be mailed until payment has been received. This project is financed by the Federal Government under the authority given it by Pub. L. No. 95-87 dated August 3, 1977, The Surface Mining Control and Reclamation Act of 1977 (act), and is subject to that act, and to the Federal grant for this project. Contact the Construction Contracts Section at (717) 787-7820 or joelmiller@state.pa.us for more information on this bid.

KATHLEEN A. MCGINTY,  
Secretary

[Pa.B. Doc. No. 07-2066. Filed for public inspection November 9, 2007, 9:00 a.m.]

### **NPDES Permit Application No. PAI023907014; Notice of Public Hearing**

The Department of Environmental Protection (Department) will hold a public hearing to accept comments on Individual National Pollutant Discharge Elimination System (NPDES) Permit Application No. PAI023907014 for the discharge of stormwater from construction activities at the proposed Southbury Park Residential Subdivision in Salisbury Township, Lehigh County.

The public hearing will be conducted on Monday, December 10, 2007, at 7 p.m. in the auditorium of Salisbury High School, 500 East Montgomery Street, Allentown, PA 18103 by the Department, Watershed Management Program, Permitting and Technical Services Section, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511. The hearing is in response to an application submitted by Myron R. Haydt Development Company, 3005 Barrington Lane, Allentown, PA 18103. The NPDES permit application proposes the discharge of stormwater from construction activities to Trout Creek (HQ-CWF) and Black River (CWF).

The Department requests that individuals wishing to testify at the hearing submit a written notice of intent to Southbury Park Residential Subdivision NPDES Public Hearing, Department of Environmental Protection, Watershed Management Program, 2 Public Square, Wilkes-Barre, PA 18711. The Department will accept notices up to the day of the hearing. The Department requests that individuals limit their testimony to 10 minutes so that all individuals have the opportunity to testify. The Department can only review comments made with regard to the NPDES Permit Application No. PAI023907014. Written copies of oral testimony are requested. Relinquishing time to others will not be allowed. Individuals attending the hearing will have the opportunity to testify if they so desire, however, individuals who preregister to testify will be given priority on the agenda.

Persons with a disability who wish to testify and require an auxiliary aid, service or other accommodation should contact Christine Domashinski at (570) 826-2511 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department can meet their needs.

The NPDES permit application is available for review at the Lehigh County Conservation District office located in the Lehigh County Agricultural Center, Suite 102, 4184 Dorney Park Road, Allentown, (610) 391-9583.

For further information, contact Mark Carmon of the Department's Northeast Regional Office at (570) 826-2511.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 07-2067. Filed for public inspection November 9, 2007, 9:00 a.m.]

### **New or Innovative Water/Wastewater Technology Grants through the Growing Greener Program; Application Deadline Extension**

The Department of Environmental Protection (Department) amends its former notice, published at 37 Pa.B. 5537 (October 13, 2007), by announcing the extension of the application deadline for New or Innovative Water/Wastewater Technology Grants through the Department's Growing Greener Program. Applications for the program will now be accepted by the Department until December 15, 2007.

The Environmental Stewardship and Watershed Protection Act, 27 Pa.C.S. §§ 6101—6113, authorizes the Department to make these grants available to municipalities, municipal authorities, counties and school districts that are making improvements to existing drinking water or sewage treatment facilities using new or innovative technology. Grants for individual projects will be available up to \$500,000 under this program. Preference will be given to the following new or innovative projects:

\* Wastewater treatment that utilizes new or innovative technology to reduce energy consumption or the carbon footprint of a system when compared to conventional processes.

The grant application form is available electronically on the Department's website at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (Select "Forms and Publications" and "Water Standards and Facility Regulation"). The form number and name are: 3800-FM-WSFR0271, Application for Growing Greener Grant Assistance New or Innovative Water/Wastewater Technology.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 07-2068. Filed for public inspection November 9, 2007, 9:00 a.m.]

## **DEPARTMENT OF REVENUE**

### **Pennsylvania Go For The Gus Dough Instant Lottery Game**

Under the State Lottery Law (72 P.S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Go For The Gus Dough.
2. *Price:* The price of a Pennsylvania Go For The Gus Dough instant lottery game ticket is \$2.

3. *Play Symbols:* Each Pennsylvania Go For The Gus Dough instant lottery game ticket will contain one play area featuring a "WINNING NUMBERS" area, a "YOUR NUMBERS" area and a separate "GUS BONUS" area containing one prize play symbol or play symbol. The play symbols and their captions located in the "WINNING NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVEN), 12 (TWELVE), 13 (THIRTY), 14 (FORTY), 15 (FIFTY), 16 (SIXTY), 17 (SEVENTY), 18 (EIGHTY), 19 (NINETY) and 20 (TWENTY). The play symbols and their captions located in the "YOUR NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVEN), 12 (TWELVE), 13 (THIRTY), 14 (FORTY), 15 (FIFTY), 16 (SIXTY), 17 (SEVENTY), 18 (EIGHTY), 19 (NINETY), 20 (TWENTY) and a Paw Print (PAW PRINT) symbol. The prize play and play symbols and their captions located in the "GUS BONUS" area are: \$4.<sup>00</sup> (FOR DOL), \$5.<sup>00</sup> (FIV DOL), \$10.<sup>00</sup> (TEN DOL), \$20\$ (TWENTY), \$40\$ (FORTY), \$50\$ (FIFTY), \$100 (ONE HUN), \$500 (FIV HUN), NO BONUS (TRY AGAIN) and TRY AGAIN (NO BONUS). The "GUS BONUS" area is played separately from the rest of the game.

4. *Prize Symbols:* The prize symbols and their captions located in the "YOUR NUMBERS" area are: FREE (TICKET), \$1.<sup>00</sup> (ONE DOL), \$2.<sup>00</sup> (TWO DOL), \$4.<sup>00</sup> (FOR DOL), \$5.<sup>00</sup> (FIV DOL), \$10.<sup>00</sup> (TEN DOL), \$20\$ (TWENTY), \$40\$ (FORTY), \$50\$ (FIFTY), \$100 (ONE HUN), \$500 (FIV HUN), \$1,000 (ONE THO) and \$25,000 (TWYFIVTHO).

5. *Prizes:* The prizes that can be won in this game are: Free \$2 Ticket, \$1, \$2, \$4, \$5, \$10, \$20, \$40, \$50, \$100, \$500, \$1,000 and \$25,000. The prizes that can be won in "GUS BONUS" area are limited to: \$4, \$5, \$10, \$20, \$40, \$50, \$100 and \$500. A player can win up to 10 times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 12,000,000 tickets will be printed for the Pennsylvania Go For The Gus Dough instant lottery game.

#### *7. Determination of Prize Winners:*

(a) Holders of tickets upon which any one of "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$25,000 (TWYFIVTHO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$25,000.

(b) Holders of tickets upon which any one of "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$1,000 (ONE THO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(c) Holders of tickets upon which any one of "YOUR NUMBERS" play symbols is a Paw Print symbol (PAW PRINT), and a prize symbol of \$500 (FIV HUN) appears under the Paw Print symbol (PAW PRINT), on a single ticket, shall be entitled to a prize of \$1,000.

(d) Holders of tickets upon which any one of "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$500 (FIV HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$500.

(e) Holders of tickets with a prize play symbol of \$500 (FIV HUN) appearing in the "GUS BONUS" area, on a single ticket, shall be entitled to a prize of \$500.

(f) Holders of tickets upon which any one of "YOUR NUMBERS" play symbols is a Paw Print symbol (PAW PRINT), and a prize symbol of \$100 (ONE HUN) appears under the Paw Print symbol (PAW PRINT), on a single ticket, shall be entitled to a prize of \$200.

(g) Holders of tickets upon which any one of "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$100 (ONE HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(h) Holders of tickets with a prize play symbol of \$100 (ONE HUN) appearing in the "GUS BONUS" area, on a single ticket, shall be entitled to a prize of \$100.

(i) Holders of tickets upon which any one of "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$50\$ (FIFTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$50.

(j) Holders of tickets with a prize play symbol of \$50\$ (FIFTY) appearing in the "GUS BONUS" area, on a single ticket, shall be entitled to a prize of \$50.

(k) Holders of tickets upon which any one of "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$40\$ (FORTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$40.

(l) Holders of tickets with a prize play symbol of \$40\$ (FORTY) appearing in the "GUS BONUS" area, on a single ticket, shall be entitled to a prize of \$40.

(m) Holders of tickets upon which any one of "YOUR NUMBERS" play symbols is a Paw Print symbol (PAW PRINT), and a prize symbol of \$20\$ (TWENTY) appears under the Paw Print symbol (PAW PRINT), on a single ticket, shall be entitled to a prize of \$40.

(n) Holders of tickets upon which any one of "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$20\$ (TWENTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(o) Holders of tickets with a prize play symbol of \$20\$ (TWENTY) appearing in the "GUS BONUS" area, on a single ticket, shall be entitled to a prize of \$20.

(p) Holders of tickets upon which any one of "YOUR NUMBERS" play symbols is a Paw Print symbol (PAW PRINT), and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears under the Paw Print symbol (PAW PRINT), on a single ticket, shall be entitled to a prize of \$20.

(q) Holders of tickets upon which any one of "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(r) Holders of tickets with a prize play symbol of \$10<sup>00</sup> (TEN DOL) appearing in the "GUS BONUS" area, on a single ticket, shall be entitled to a prize of \$10.

(s) Holders of tickets upon which any one of "YOUR NUMBERS" play symbols is a Paw Print symbol (PAW PRINT), and a prize symbol of \$5<sup>00</sup> (FIV DOL) appears under the Paw Print symbol (PAW PRINT), on a single ticket, shall be entitled to a prize of \$10.

(t) Holders of tickets upon which any one of "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$5<sup>00</sup> (FIV DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$5.

(u) Holders of tickets with a prize play symbol of \$5<sup>00</sup> (FIV DOL) appearing in the "GUS BONUS" area, on a single ticket, shall be entitled to a prize of \$5.

(v) Holders of tickets upon which any one of "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$4<sup>00</sup> (FOR DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$4.

(w) Holders of tickets with a prize play symbol of \$4<sup>00</sup> (FOR DOL) appearing in the "GUS BONUS" area, on a single ticket, shall be entitled to a prize of \$4.

(x) Holders of tickets upon which any one of "YOUR NUMBERS" play symbols is a Paw Print symbol (PAW PRINT), and a prize symbol of \$2<sup>00</sup> (TWO DOL) appears under the Paw Print symbol (PAW PRINT), on a single ticket, shall be entitled to a prize of \$4.

(y) Holders of tickets upon which any one of "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$2<sup>00</sup> (TWO DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$2.

(z) Holders of tickets upon which any one of "YOUR NUMBERS" play symbols is a Paw Print symbol (PAW PRINT), and a prize symbol of \$1<sup>00</sup> (ONE DOL) appears under the Paw Print symbol (PAW PRINT), on a single ticket, shall be entitled to a prize of \$2.

(aa) Holders of tickets upon which any one of "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of FREE (TICKET) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of one Pennsylvania Go For The Gus Dough instant game ticket or one Pennsylvania Lottery instant game ticket of equivalent sale price which is currently on sale.

(bb) Holders of tickets upon which any one of "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$1<sup>00</sup> (ONE DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

<i>When Any Of Your Numbers Match Either Winning Number; Win With Prize(s) Of:</i>	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 12,000,000 Tickets</i>
FREE	FREE \$2 TICKET	12.5	960,000
\$2	\$2	150	80,000
\$1 × 2	\$2	150	80,000
\$1 w/PAW PRINT	\$2	150	80,000
\$4	\$4	75	160,000
\$2 × 2	\$4	75	160,000
\$2 w/PAW PRINT	\$4	60	200,000
GUS BONUS w/\$4	\$4	60	200,000
\$5	\$5	150	80,000
\$1 × 5	\$5	150	80,000
GUS BONUS w/\$5	\$5	50	240,000
\$10	\$10	500	24,000
\$2 × 5	\$10	500	24,000
\$5 × 2	\$10	500	24,000
\$5 w/PAW PRINT	\$10	300	40,000
GUS BONUS w/\$10	\$10	300	40,000
(GUS BONUS w/\$5) + \$5	\$10	250	48,000
\$20	\$20	750	16,000
\$4 × 5	\$20	1,500	8,000
\$5 × 4	\$20	1,500	8,000
\$10 × 2	\$20	1,500	8,000
\$10 w/PAW PRINT	\$20	750	16,000
GUS BONUS w/\$20	\$20	750	16,000
(GUS BONUS w/\$10) + \$10	\$20	1,500	8,000
\$40	\$40	3,000	4,000
\$4 × 10	\$40	2,667	4,500
\$10 × 4	\$40	3,000	4,000
\$20 w/PAW PRINT	\$40	1,846	6,500
GUS BONUS w/\$40	\$40	2,182	5,500
(GUS BONUS w/\$20) + \$20	\$40	2,182	5,500
\$50	\$50	3,429	3,500
\$5 × 10	\$50	3,429	3,500
\$10 × 5	\$50	3,429	3,500
(\$10 w/PAW PRINT) + (\$10 × 3)	\$50	2,667	4,500
(\$20 w/PAW PRINT) + (\$5 × 2)	\$50	2,667	4,500
GUS BONUS w/\$50	\$50	2,667	4,500
\$100	\$100	6,000	2,000
(\$10 w/PAW PRINT) + (\$10 × 8)	\$100	4,800	2,500
\$20 × 5	\$100	6,000	2,000
(\$20 w/PAW PRINT) + (\$20 × 3)	\$100	4,800	2,500
GUS BONUS w/\$100	\$100	4,138	2,900
(GUS BONUS w/\$50) + \$50	\$100	4,000	3,000
\$500	\$500	60,000	200
\$100 × 5	\$500	60,000	200
(\$100 w/PAW PRINT) + (\$100 × 3)	\$500	60,000	200
GUS BONUS w/\$500	\$500	60,000	200
\$500 w/PAW PRINT	\$1,000	40,000	300
\$1,000	\$1,000	40,000	300
\$25,000	\$25,000	600,000	20

PAW PRINT (PAW PRINT) = Win double the prize shown under it automatically.  
GUS BONUS = Reveal prize amount from \$4 to \$500 and win that prize.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Go For The Gus Dough instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentive).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Go For The Gus Dough, prize money from winning Pennsylvania Go For

The Gus Dough instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Go For The Gus Dough instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State

Lottery Law (72 P.S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Go For The Gus Dough or through normal communications methods.

THOMAS W. WOLF,  
Secretary

[Pa.B. Doc. No. 07-2069. Filed for public inspection November 9, 2007, 9:00 a.m.]

### Pennsylvania Moolah Instant Lottery Game

Under the State Lottery Law (72 P.S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Moolah.

2. *Price:* The price of a Pennsylvania Moolah instant lottery game ticket is \$1.

3. *Play Symbols:* Each Pennsylvania Moolah instant lottery game ticket will contain one play area containing nine prize play symbols and a separate "QUICK \$10" area containing one play symbol. The prize play symbols and their captions located in the play area are: FREE (TICKET), \$1<sup>.00</sup> (ONE DOL), \$2<sup>.00</sup> (TWO DOL), \$5<sup>.00</sup> (FIV DOL), \$10<sup>.00</sup> (TEN DOL), \$20\$ (TWENTY), \$30\$ (THIRTY), \$40\$ (FORTY), \$100 (ONE HUN), \$400 (FOR HUN) and \$2,000 (TWO THO). The play symbols and their captions located in the "QUICK \$10" area are: Shoe symbol (SHOE), Cherry symbol (CHERRY), Bell symbol (BELL), Star symbol (STAR), Seven symbol (SEVEN), Diamond symbol (DIAM), Coin symbol (COIN), Dollar symbol (DOLLAR), Wishbone symbol (WSHBNE), Clover symbol (CLOVER) and a Milk Carton symbol (MILKCRTN). The "QUICK \$10" area is played separately from the rest of the game.

4. *Prizes:* The prizes that can be won in this game are: Free \$1 Ticket, \$1, \$2, \$5, \$10, \$20, \$30, \$40, \$100, \$400 and \$2,000. The prize that can be won in the "QUICK \$10" area is \$10.

5. *Approximate Number of Tickets Printed For the Game:* Approximately 14,400,000 tickets will be printed

for the Pennsylvania Moolah instant lottery game. A player can win up to 2 times on a ticket.

#### 6. Determination of Prize Winners:

(a) Holders of tickets with three matching prize play symbols of \$2,000 (TWO THO) in the play area, on a single ticket, shall be entitled to a prize of \$2,000.

(b) Holders of tickets with three matching prize play symbols of \$400 (FOR HUN) in the play area, on a single ticket, shall be entitled to a prize of \$400.

(c) Holders of tickets with three matching prize play symbols of \$100 (ONE HUN) in the play area, on a single ticket, shall be entitled to a prize of \$100.

(d) Holders of tickets with three matching prize play symbols of \$40\$ (FORTY) in the play area, on a single ticket, shall be entitled to a prize of \$40.

(e) Holders of tickets with three matching prize play symbols of \$30\$ (THIRTY) in the play area, on a single ticket, shall be entitled to a prize of \$30.

(f) Holders of tickets with three matching prize play symbols of \$20\$ (TWENTY) in the play area, on a single ticket, shall be entitled to a prize of \$20.

(g) Holders of tickets with three matching prize play symbols of \$10<sup>.00</sup> (TEN DOL) in the play area, on a single ticket, shall be entitled to a prize of \$10.

(h) Holders of tickets with a Milk Carton symbol (MILKCRTN) in the "QUICK \$10" area, on a single ticket, shall be entitled to a prize of \$10.

(i) Holders of tickets with three matching prize play symbols of \$5<sup>.00</sup> (FIV DOL) in the play area, on a single ticket, shall be entitled to a prize of \$5.

(j) Holders of tickets with three matching prize play symbols of \$2<sup>.00</sup> (TWO DOL) in the play area, on a single ticket, shall be entitled to a prize of \$2.

(k) Holders of tickets with three matching prize play symbols of \$1<sup>.00</sup> (ONE DOL) in the play area, on a single ticket, shall be entitled to a prize of \$1.

(l) Holders of tickets with three matching prize play symbols of FREE (TICKET) in the play area, on a single ticket, shall be entitled to a prize of one Pennsylvania Moolah instant game ticket or one Pennsylvania Lottery instant game ticket of equivalent sale price which is currently on sale.

7. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

Win With Prize(s) Of:	Win:	Approximate Odds Are 1 In:	Approximate No. of Winners Per 14,400,000 Tickets
3-FREE's	FREE \$1 TICKET	12	1,200,000
3-\$1's	\$1	60	240,000
3-\$2's	\$2	15	960,000
3-\$5's	\$5	42.86	336,000
3-\$10's	\$10	600	24,000
QUICK \$10 w/MILK CARTON	\$10	120	120,000
3-\$20's	\$20	600	24,000
3-\$10's + QUICK \$10 w/MILK CARTON	\$20	600	24,000
3-\$30's	\$30	2,400	6,000
3-\$20's + QUICK \$10 w/MILK CARTON	\$30	2,400	6,000



<i>Win With Prize(s) Of:</i>	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. of Winners Per 14,400,000 Tickets</i>
3-\$40's	\$40	3,200	4,500
3-\$30's + QUICK \$10 w/MILK CARTON	\$40	3,200	4,500
3-\$100's	\$100	2,400	6,000
3-\$400's	\$400	80,000	180
3-\$2,000's	\$2,000	1,200,000	12

QUICK \$10: MILK CARTON (MILKCRTN) = Win \$10 automatically.

Prizes, including top prizes, are subject to availability at the time of purchase.

8. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Moolah instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentive).

9. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Moolah, prize money from winning Pennsylvania Moolah instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Moolah instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

10. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

11. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Moolah or through normal communications methods.

THOMAS W. WOLF,  
Secretary

[Pa.B. Doc. No. 07-2070. Filed for public inspection November 9, 2007, 9:00 a.m.]

## DEPARTMENT OF TRANSPORTATION

### Application for Lease of Right-of-Way

The Department of Transportation (Department), under 67 Pa. Code § 495.4(d) (relating to application procedure), gives notice that an application to lease highway right-of-way has been submitted to the Department by Allegheny General Hospital, 320 East North Avenue, Pittsburgh, PA, seeking to lease highway right-of-way located on the westerly side of Howard Street between Baravia Way and Rising Main Avenue, in the City of Pittsburgh, Allegheny County, containing 7.57 ± acre, adjacent to SR 0279 for purposes of vehicle parking.

Interested persons are invited to submit, within 30 days from the publication of this notice in the *Pennsylvania Bulletin*, written comments, suggestions and/or objections regarding the approval of this application to H. Daniel Cessna, P. E., District Executive, Engineering District 11-0, 45 Thoms Run Road, Bridgeville, PA 15017.

Questions regarding this application or the proposed use may be directed to Michael Sudar, District Property Manager, 45 Thoms Run Road, Bridgeville, PA 15017, (412) 429-4830.

ALLEN D. BIEHLER, P. E.,  
Secretary

[Pa.B. Doc. No. 07-2071. Filed for public inspection November 9, 2007, 9:00 a.m.]

## ENVIRONMENTAL HEARING BOARD

### Pocono Township v. DEP; EHB Doc. No. 2007-240-L

Pocono Township has appealed the issuance by the Department of Environmental Protection of NPDES permit to Pocono Township Supervisors for a facility in Stroud Township, Monroe County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457 and may be reviewed by any interested party on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.81 (relating to intervention). Copies of the Board's rules of practice and procedure are available upon request from the Board.

THOMAS W. RENWAND,  
Acting Chairperson

[Pa.B. Doc. No. 07-2072. Filed for public inspection November 9, 2007, 9:00 a.m.]

## Upper Gwynedd Township v. DEP; EHB Doc. No. 2007-235-MG

Upper Gwynedd Township has appealed the issuance by the Department of Environmental Protection of an NPDES amended permit to Upper Gwynedd Township for a facility in Upper Gwynedd Township, Montgomery County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457 and may be reviewed by any interested party on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.81 (relating to intervention). Copies of the Board's rules of practice and procedure are available upon request from the Board.

THOMAS W. RENWAND,  
*Acting Chairperson*

[Pa.B. Doc. No. 07-2073. Filed for public inspection November 9, 2007, 9:00 a.m.]

## HEALTH CARE COST CONTAINMENT COUNCIL

### Request for Proposal

The Health Care Cost Containment Council (Council) is soliciting bids from qualified vendors to conduct a finan-

cial and compliance audit of the books, records and documents of the Council, for the fiscal year periods July 1, 2006—June 20, 2008. Interested parties are requested to contact the Council Office by writing the Health Care Cost Containment Council, Suite 400, 225 Market Street, Harrisburg, PA 17101, or by calling (717) 232-6787 for copies of the Request for Proposal. Bids are due to the Council Office no later than 5 p.m. on December 10, 2007. A preproposal conference will be held at the previous address on November 20, 2007, at 10 a.m. Potential bidders are invited to submit questions in writing by November 16, 2007, to Cherie Elias at the previous address.

MARC P. VOLAVKA,  
*Executive Director*

[Pa.B. Doc. No. 07-2074. Filed for public inspection November 9, 2007, 9:00 a.m.]

## INDEPENDENT REGULATORY REVIEW COMMISSION

### Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b).

The Commission has issued comments on the following proposed regulations. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg. No.</i>	<i>Agency/Title</i>
7-414	Environmental Quality Board Coal Mines 37 Pa.B. 4754 (September 1, 2007)
7-412	Environmental Quality Board Safe Drinking Water—General Update 37 Pa.B. 4762 (September 1, 2007)

<i>Close of the Public Comment Period</i>	<i>IRCC Comments Issued</i>
10/1/07	10/31/07
10/1/07	10/31/07

### Environmental Quality Board Regulation #7-414 (IRRC #2632)

#### Coal Mines October 31, 2007

We submit for your consideration the following comments on the proposed rulemaking published in the September 1, 2007 *Pennsylvania Bulletin*. Our comments are based on criteria in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the Environmental Quality Board (EQB) to respond to all comments received from us or any other source.

### 1. Adoption by reference and enforcement of violations.

#### *Protection of the public health, safety and welfare*

This rulemaking deletes 25 Pa. Code Chapter 209 and adds provisions to selectively adopt by reference portions of 30 CFR Parts 56 and 77. The United States Department of Labor, Mine Safety and Health Administration (MSHA) regulations in 30 CFR Parts 56 and 77 include about 700 sections. The EQB is adopting by reference about 130 of those sections. In the Preamble, the EQB states:

In proposing these amendments, the Department of Environmental Protection's (Department) goal is to provide the most improved safety at surface mines in

this Commonwealth in the most cost effective and the least intrusive manner. The provisions of the MSHA regulations adopted by this proposed rulemaking are those that address the most significant risk to surface miners in this Commonwealth.

Upon review of 30 CFR Parts 56 and 77, it is not clear how the EQB determined which portions of the CFR the Department of Environmental Protections (DEP) needs to enforce and which portions do not need DEP enforcement. As an example, 30 CFR Part 77, Subpart L *Fire Protection* includes 14 sections, of which the EQB is adopting 10 sections. Among the four sections not adopted are Sections 77.1100 *Fire protection; training and organization* and 77.1101 *Escape and evacuation; plan*. How did the EQB determine that DEP enforcement is not needed for requirements such as annual employee fire protection training and evacuation plans? The EQB should explain how it determined to adopt, and therefore enforce, selected sections, but chose not to adopt or enforce other sections throughout 30 CFR Parts 56 and 77.

#### *Reasonableness*

Once this rulemaking becomes effective, the DEP can enforce the safety provisions adopted by reference. However, the Preamble also explains that:

Even though the Department is not adopting all of the MSHA health and safety standards, the Department's inspectors will assist the operators in ensuring compliance with the MSHA regulations. If a Pennsylvania inspector observes a violation of a MSHA safety regulation that the Commonwealth has not adopted, the Pennsylvania inspector will, as part of the Department's compliance assistance program, point out the condition and explain that it is a violation of a MSHA regulation and needs to be addressed.

While we see merit in a compliance assistance program to improve safety, the details of a DEP inspector's actions as described in the Preamble are not clear for several reasons. The EQB should explain the following:

- How is a DEP inspector qualified to determine how MSHA would interpret its federal regulations where the EQB left sole jurisdiction to MSHA?
- What expectation does it place on an operator when a DEP inspector makes a determination that a violation under MSHA's sole jurisdiction "needs to be addressed"?
- What recourse does an operator have if the operator disagrees or a DEP inspector's interpretation differs from MSHA's interpretation?

#### **2. Section 209a.42. Accident reporting.—Need; Reasonableness.**

Essroc Cement Corporation (Essroc) commented that, as written, this section would require operators to notify the Department within 1 hour of many comparatively minor injuries. The commentator believes this section should be amended to limit reporting to serious incidents and occupational injuries. The EQB should explain the need for reporting every injury that requires "medical treatment" within 1 hour and what DEP would do with this information.

#### **3. Section 209a.43. Alternative standards.—Reasonableness.**

Subsections (a) and (b) allow alternative standards for past and future decisions by MSHA. However, this section does not address pending filings with MSHA and effec-

tively prohibits alternative standards. At the time the regulation becomes effective, an operator, that previously submitted a petition and is awaiting a response from MSHA, could not comply with the requirement in Paragraph (b)(1) to provide a copy of the petition and supporting materials to DEP "upon submission to MSHA." We recommend amending this section to allow operators with pending petitions to submit the appropriate information to DEP within a reasonable amount of time after the regulation becomes effective.

#### **4. 209a.44. Access to records.—Reasonableness; Need.**

Essroc commented that this section is too general because it gives DEP access to all records prepared to comply with 30 CFR Parts 50, 56 and 77. Essroc believes DEP should only have access to the records prepared to comply with the Federal regulations adopted by reference.

The EQB is not directly adopting 30 CFR Part 50, and is adopting a minority of the sections in 30 CFR Parts 56 and 77. The EQB should explain why it needs access to all information prepared to comply with 30 CFR Parts 50, 56 and 77 rather than just the provisions the EQB is adopting by reference in this regulation.

#### **5. Miscellaneous Clarity.**

For consistency with the rest of this regulation, Section 209a.10(b) should use the term "Department," as it is defined in 25 Pa. Code § 1.1.

### **Environmental Quality Board Regulation #7-412 (IRRC #2633)**

#### **Safe Drinking Water—General Update**

**October 31, 2007**

We submit for your consideration the following comments on the proposed rulemaking published in the September 1, 2007 *Pennsylvania Bulletin*. Our comments are based on criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the Environmental Quality Board (Board) to respond to all comments received from us or any other source.

#### **1. General.—Fiscal impact; Consistency with other regulations; Reasonableness; Implementation procedure; Clarity.**

On September 27, 2007, Richard A. Rogers, Chief, Drinking Water Branch, U. S. Environmental Protection Agency, Region III (EPA III), submitted written comments on this proposed regulation to the Board. The EPA III comments raised several issues related directly to our criteria. Its comments contained suggestions and recommendations designed to bring the Pennsylvania regulations into greater consistency with the federal rules. We share the same comments, suggestions and recommendations expressed by EPA III and incorporate them into the Commission's comments on this proposed regulation.

The Pennsylvania State Association of Township Supervisors (PSATS) submitted written comments expressing concerns with the "cumulative impact on the cost of complying with increasingly stringent regulations." It is especially concerned with the impact on small water

systems across the state, including more than 3,300 systems that each serves fewer than 500 people. While most of the regulations are federal mandates, these added costs bear an impact, particularly on smaller systems. In developing the final-form regulation, the Board and Department of Environmental Protection (DEP) should thoroughly examine the fiscal impact of the regulations on smaller water systems.

**2. Section 109.301. General monitoring requirements.—Reasonableness; Implementation procedure; Clarity.**

In addition to EPA III, another commentator noted a concern related to waivers in Subsection (5)(viii). Paragraph (C) in this subsection reads: "A waiver is effective for one compliance period and may be renewed in each subsequent compliance period." The commentator suggests that the regulation should make it clear that the water supplier is responsible for submitting the renewal application. We agree. The final-form regulation should clarify the procedures and process for renewals of waivers.

**3. Section 109.701. Reporting and recordkeeping.—Fiscal impact; Reasonableness; Feasibility; Implementation procedure.**

This section contains new language which implements "electronic reporting" of data by public water systems to DEP by means of the internet. In its written comments, PSATS expressed concern with the cost and feasibility of this mandate for smaller systems in remote areas which may not have access to the internet. The proposed regulation contains a provision whereby water systems could assign the responsibility for submitting the required reports to an accredited laboratory. However, this would entail another new cost for these systems. The Board and DEP should consider other alternate methods for submitting this data such as allowing water systems to submit data electronically recorded on a disk to DEP. In some cases, this approach may be more cost effective to a system than hiring a laboratory to submit the reports. As stated in Issue No. 1 above, the Board and DEP should examine methods for reducing the fiscal impact of this proposed regulation on smaller systems. The Board should also consider amending the final-form regulation to increase reporting flexibility for the smaller systems.

**4. Section 109.1107. System management responsibilities.—Protection of public health and safety; Reasonableness; Need; Implementation procedures.**

This section contains a new requirement that water systems report the "sample location" with their reports on lead and copper tap monitoring results. A commentator for the Philadelphia Water Department (PWD) expressed concern with this provision. This new requirement could hinder the PWD's effort at customer recruitment and relationships with customers who volunteered to participate in the lead and copper sampling program with the assumption of privacy. PWD recommends that provisions be made to protect the privacy of sampling participants. The Board and DEP should address this concern in the final-form regulation.

ARTHUR COCCODRILLI,  
*Chairperson*

[Pa.B. Doc. No. 07-2075. Filed for public inspection November 9, 2007, 9:00 a.m.]

**Notice of Filing of Final Rulemaking**

The Independent Regulatory Review Commission (Commission) received the following regulation. It is scheduled to be considered on the date noted. The Commission's public meetings are held at 333 Market Street, 14th Floor, in Harrisburg at 10:30 a.m. To obtain a copy of the regulation, interested parties should first contact the promulgating agency. If a copy cannot be obtained from the promulgating agency, the Commission will provide a copy.

This schedule is tentative. Please contact the Commission at (717) 783-5417 or check our website at [www.irrc.state.pa.us](http://www.irrc.state.pa.us) for updates.

*Final-Form*

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>	<i>Public Meeting</i>
6-302	State Board of Education Foreign Corporation Standards	10/31/07	12/6/07

ARTHUR COCCODRILLI,  
*Chairperson*

[Pa.B. Doc. No. 07-2076. Filed for public inspection November 9, 2007, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Application for Approval to Acquire Control

Homestead Risk Management Corporation has filed an application for approval to acquire control of Homestead Insurance Company, a Pennsylvania domiciled stock casualty insurance company. The filing was made under the Insurance Holding Companies Act (40 P. S. §§ 991.1402—991.1413). Persons wishing to comment on the acquisition are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party, identification of the application to which the statement is addressed and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Robert Brackbill, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557 or [rbrackbill@state.pa.us](mailto:rbrackbill@state.pa.us).

JOEL SCOTT ARIO,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 07-2077. Filed for public inspection November 9, 2007, 9:00 a.m.]

### Erie Insurance Exchange; Private Passenger Auto Insurance Rate and Rule Revision; Rate Filing

On October 22, 2007, the Insurance Department (Department) received from Erie Insurance Exchange a filing for a proposed rate level and rule change for private passenger auto insurance.

The company requests an overall 0.5% increase amounting to \$4,598,000 annually, to be effective April 1, 2008, for new business and renewal business.

Unless formal administrative action is taken prior to December 21, 2007, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's website at [www.ins.state.pa.us](http://www.ins.state.pa.us). Under the Quick Links section, click on the link "Rate Filings Published in the PA Bulletin."

A copy of the filing is also available for public inspection, by appointment, during normal working hours at the Department's office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Xiaofeng Lu, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, [xlu@state.pa.us](mailto:xlu@state.pa.us), within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 07-2078. Filed for public inspection November 9, 2007, 9:00 a.m.]

## PENNSYLVANIA INTERGOVERNMENTAL COOPERATION AUTHORITY

### Financial Statement

Under the provisions of section 207 of the Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class (53 P. S. §§ 12720.101—12720.709) the Pennsylvania Intergovernmental Cooperation Authority (Authority) is required to publish a "concise financial statement" annually in the *Pennsylvania Bulletin*. The Authority has issued its annual report for its fiscal year ended June 30, 2007, which includes an audit for the period performed in accordance with generally accepted auditing standards by an independent firm of certified public accountants. The complete annual report of the Authority may be obtained from the Authority's website, [www.picapa.org](http://www.picapa.org) or at 1429 Walnut Street, 14th floor, Philadelphia, PA 19102, (215) 561-9160.

ROB DUBOW,  
*Executive Director*

**PENNSYLVANIA INTERGOVERNMENTAL COOPERATION AUTHORITY**  
**STATEMENT OF NET ASSETS**  
**JUNE 30, 2007**

**ASSETS**

	<b>Governmental Activities</b>
<b>CURRENT ASSETS:</b>	
Cash, cash equivalents and short-term investments	\$ 160,819,766
PICA taxes receivable	9,073,322
Accrued interest receivable	<u>441,657</u>
Total current assets	<u>170,334,744</u>
<b>OTHER ASSETS</b>	<u>2,861,598</u>
<b>TOTAL</b>	<u><u>\$ 173,196,343</u></u>
<b>LIABILITIES AND NET ASSETS</b>	
<b>CURRENT LIABILITIES:</b>	
Accounts payable and accrued expenses	\$ 355,237
Due to the City of Philadelphia	10,422,013
Deferred revenue	25,451,561
Bonds payable—current portion	<u>48,700,000</u>
Total current liabilities	<u>84,928,811</u>
<b>BONDS PAYABLE—Long-term portion</b>	<u>573,835,000</u>
Total liabilities	<u>658,763,811</u>
<b>NET ASSETS (DEFICIT):</b>	
Restricted for debt service	83,660,607
Restricted for benefit of the City of Philadelphia	33,698,447
Restricted for subsequent PICA administration	1,558,986
Unrestricted deficit	<u>(604,485,507)</u>
Total net assets (deficit)	<u>(485,567,468)</u>
<b>TOTAL</b>	<u><u>\$ 173,196,343</u></u>

The accompanying notes are an integral part of this statement

**PENNSYLVANIA INTERGOVERNMENTAL COOPERATION AUTHORITY**  
**STATEMENT OF ACTIVITIES**  
**JUNE 30, 2007**

	<u>Governmental Activities</u>
<b>EXPENSES</b>	
Grants to the City of Philadelphia	\$245,002,470
General management and support—	
General operations	1,471,363
Interest expense on long term debt	<u>34,937,932</u>
Total program expenses	<u>281,411,765</u>
 <b>PROGRAM REVENUES—</b>	
Premium amortization	1,615,281
Interest	<u>8,938,869</u>
Program revenues	<u>10,554,150</u>
Net program expenses	<u>270,857,615</u>
 <b>GENERAL REVENUES</b>	
PICA Taxes	328,054,805
Interest	<u>713,819</u>
Total general revenues	<u>328,768,624</u>
 <b>DECREASE IN NET DEFICIT</b>	57,911,009
 <b>NET ASSETS (DEFICIT)—Beginning of year</b>	<u>(543,478,477)</u>
 <b>NET ASSETS (DEFICIT)—End of year</b>	<u>(\$485,567,468)</u>

The accompanying notes are an integral part of this statement.

PENNSYLVANIA INTERGOVERNMENTAL COOPERATION AUTHORITY  
BALANCE SHEET-GOVERNMENTAL FUNDS  
JUNE 30, 2007

	General	PICA Tax Revenue	Debt Service Funds		2003	Debt Service Reserve Fund	Rebate Fund	Expendable Trust Funds Capital Projects Fund			Total Governmental Funds
			1996	2006	1999			1992	1993	1994	
<b>ASSETS</b>											
<b>CURRENT ASSETS:</b>											
Cash, cash equivalents and short-term investments	\$ 41,982,828	\$ -	\$ 243	\$ 423,630	\$ 4,797,214	\$ 77,546,269	\$ 1,906,491	\$ 12,354,064	\$ 2,717,446	\$ 18,502,659	\$ 160,819,266
PICA Taxes receivable	102,519	9,073,322		8,235	106,144	49,886	7,068	45,730	10,059	68,489	9,073,322
Accrued interest receivable	59,350	1,316,732	1	1,034,986		4,450,000					441,662
Interfund receivable											6,861,068
Total current assets	42,144,697	10,422,013	244	1,466,850	4,903,357	597,496	1,916,559	12,399,793	2,727,505	18,571,148	177,195,817
<b>OTHER ASSETS</b>	80,819										80,819
<b>TOTAL</b>	\$ 42,225,516	\$ 10,422,013	\$ 244	\$ 1,466,850	\$ 4,903,357	\$ 597,496	\$ 1,916,559	\$ 12,399,793	\$ 2,727,505	\$ 18,571,148	\$ 177,276,636
<b>LIABILITIES AND FUND EQUITY</b>											
<b>CURRENT LIABILITIES:</b>											
Accounts payable and accrued expenses	\$ 355,236	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 355,236
Due to the City of Philadelphia		10,422,013				4,450,000					10,422,013
Deferred revenue	9,700,000					166,732					14,150,000
Interfund payable	5,600,000										6,861,068
Total current liabilities	15,655,236	10,422,013				4,616,732					31,788,316
<b>FUND EQUITY:</b>											
Fund balances:											
Unreserved	6,976,167		244	1,466,850	4,903,357	(496,840)	1,916,559				6,976,167
Reserved for debt service						75,870,437					83,060,607
Reserved for benefit of the City of Philadelphia											
Reserved for subsequent PICA administration								12,399,793	2,727,505	18,571,148	33,698,447
Designated for future swap activity											1,558,986
Total fund equity	19,594,113										19,594,113
	26,570,280		244	1,466,850	4,903,357	(496,840)	1,916,559	12,399,793	2,727,505	18,571,148	145,488,320
<b>TOTAL</b>	\$ 42,225,516	\$ 10,422,013	\$ 244	\$ 1,466,850	\$ 4,903,357	\$ 597,496	\$ 1,916,559	\$ 12,399,793	\$ 2,727,505	\$ 18,571,148	

Amounts reported for governmental activities in the statement of net assets are different due to:

Long-term liabilities are not due and payable in the current period and therefore are not reported in the funds	(622,535,000)
Swap premium is deferred and amortized over the life of the new debt in the statement of net assets	(13,844,418)
Forward delivery agreement premium is amortized over the life of the agreement in the statement of net assets	2,542,837
Bond issuance costs are accrued and amortized in the statement of net assets	2,780,773
Net assets of governmental activities	\$ (485,567,468)

The accompanying notes are an integral part of this statement



PENNSYLVANIA INTERGOVERNMENTAL COOPERATION AUTHORITY  
STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE - GOVERNMENTAL FUNDS  
YEAR ENDED JUNE 30, 2007

	PICA Tax Revenue	1993A	1996	Debt Service Fund 2006	1999	2003	Debt Service Reserve Fund	Rebate Fund	1992	Expendable Trust Funds Capital Projects Fund 1993	1994	Total Governmental Funds
REVENUES:												
General	\$ 327,922,800	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 327,922,800
PICA Taxes	132,005	-	-	-	-	-	-	-	-	-	-	132,005
Other	2,052,142	-	-	-	-	-	-	-	-	-	-	2,052,142
Interest earned on investments	713,828	-	-	109,349	1,409,245	1,555,905	3,591,387	87,037	564,618	123,864	845,302	9,652,688
Total revenues	2,184,147	-	-	109,349	1,409,245	1,555,905	3,591,387	87,037	564,618	123,864	845,302	337,707,493
EXPENDITURES:												
Grants to the City of Philadelphia	132,005	244,651,730	-	-	-	-	-	-	117,000	-	101,735	245,002,470
Debt service:												
Principal	-	-	-	4,450,000	41,030,000	6,290,000	-	-	-	-	-	51,770,000
Interest	-	-	-	4,532,271	22,198,050	7,477,092	-	-	-	-	-	34,207,412
Administration:												
Investment expenses	150	1,660	-	215,982	12,500	326,357	-	-	-	-	-	556,648
Operations	1,471,363	-	-	-	-	-	-	-	-	-	-	1,471,363
Total expenditures	1,603,518	244,653,390	-	9,198,252	63,240,550	14,093,449	-	-	117,000	-	101,735	333,007,894
EXCESS OF REVENUES OVER (UNDER) EXPENDITURES	580,628	83,983,238	-	(9,088,903)	(61,831,305)	(13,537,543)	3,591,387	87,037	447,618	123,864	743,567	4,699,599
OTHER FINANCING SOURCES (USES):												
Net operating transfers in (out)	1,815,208	(83,983,238)	-	9,093,272	61,374,178	12,871,965	(2,039,899)	-	-	-	-	0
SOURCES OVER (UNDER)	2,395,836	-	-	904,376	(457,127)	(1,065,578)	1,531,488	87,037	447,618	123,864	743,567	4,699,599
EXPENDITURES AND OTHER USES												
FUND BALANCES, JULY 1, 2006	24,174,444	-	-	562,474	5,360,484	568,738	75,897,935	1,829,522	11,952,176	2,603,641	17,827,581	140,788,720
FUND BALANCES, JUNE 30, 2007	26,570,280	-	-	1,466,850	4,903,357	(496,840)	77,429,423	1,916,559	12,399,793	2,727,505	18,571,148	145,688,320

**Reconciliation of change in fund balance to change in net assets:**

Change in fund balance	4,699,599
Repayment of bond principal is an expenditure in the governmental funds, but the repayment reduces long-term liabilities in the statement of net assets	51,770,000
Swap and forward delivery agreement premiums are deferred and amortized over the life of the new debt on the statement of net assets	1,615,281
Bond issuance costs are accrued and amortized on the statement of net assets	(173,871)
Change in net assets	\$ 57,911,009

The accompanying notes are an integral part of this statement

# PENNSYLVANIA PUBLIC UTILITY COMMISSION

## Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by December 3, 2007. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

### Applications of the following for approval to *begin operating as common carriers for transportation of persons as described under each application.*

**A-00124171. Robert E. Plank** (1574 Main Street, Box 102, Goodville, Lancaster County, PA 17528)—persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the County of Lancaster to points in Pennsylvania, and return.

**A-00124178. Ground and Air Resources, LLC** (1765 Goucher Street, Johnstown, Cambria County, PA 15905)—a limited liability company of the Commonwealth—persons in airport transfer service, from the Counties of Blair, Cambria, Somerset, Indiana, Westmoreland, Erie, Crawford, Mercer, Lawrence and Butler, to the Pittsburgh International Airport, located in the County of Allegheny. *Attorney:* Michael J. Parrish, Jr., Spence, Custer, Saylor, Wolfe & Rose, LLC, P. O. Box 280, Johnstown, PA 15907.

### Application of the following for approval to *begin operating as contract carriers for transportation of persons as described under each application.*

**A-00124177. Sierra Transportation, LLC, t/a Sierra Transportation** (21 Maytide Street, Pittsburgh, Allegheny County, PA 15227)—persons from points in Allegheny County to points in Pennsylvania, and return, for the Life Pittsburgh.

*Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Evans Motor Car Co., Inc.; Doc. No. A-00110299C0701*

### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That all authority issued to Evans Motor Car Co., Inc. (respondent) is under suspension effective 09/19/2007 for failure to maintain evidence of insurance on file with this Commission.

2. That respondent maintains a principal place of business at Evans Motor Car Co., Inc., P. O. Box 1214 North Drive, Wrightstown, NJ 08562.

3. That respondent was issued a Certificate of Public Convenience by this Commission on 8/18/1994 at Application Docket No. A-00110299.

4. That respondent has failed to maintain evidence of bodily injury and property damage liability insurance and cargo insurance on file with this Commission.

5. That respondent, by failing to maintain evidence of insurance on file with this Commission, violated 66 Pa.C.S. § 512, 52 Pa. Code § 32.2(c), and 52 Pa. Code § 32.11(a), § 32.12(a) or § 32.13(a).

Wherefore, unless respondent causes its insurer to file evidence of insurance with this Commission within twenty (20) days of the date of service of this Complaint, the Bureau of Transportation and Safety Prosecutory Staff will request that the Commission issue an Order which (1) cancels the Certificate of Public Convenience held by respondent at Docket No. A-00110299 for failure to maintain evidence of current insurance on file with the Commission, (2) orders such other remedy as the Commission may deem to be appropriate, which may include a fine and the suspension of a vehicle registration and (3) imposes an additional fine on the respondent.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services & Enforcement Division  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

### VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect that the Bureau will be able to prove same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services and Enforcement  
Division  
Bureau of Transportation and Safety

### NOTICE

A. You must file an Answer within twenty (20) days of the date of service of this Complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this Complaint and Notice, 52 Pa. Code § 1.56(a). An Answer is a written explanation of circumstances wished to be considered in determining the outcome. The Answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this Complaint. Your Answer must be verified and the original and three (3) copies sent to:

James J. McNulty, Secretary  
 Pennsylvania Public Utility Commission  
 P. O. Box 3265  
 Harrisburg, PA 17105-3265

B. If you fail to answer this Complaint within twenty (20) days of the date of service, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty. Pursuant to 66 Pa.C.S. § 3301(a), the penalty could include a fine of up to \$1,000 for each violation, the revocation of your Certificate of Public Convenience, or any other remedy as may be appropriate. Each day you continue to violate any regulation, direction, requirement, determination or Order of the Commission is a separate and distinct offense, subject to additional penalties.

C. You may elect not to contest this Complaint by causing your insurer to file proper evidence of current insurance in accordance with the Commission's regulations within twenty (20) days of the date of service of this Complaint. The proof of insurance must be filed with the

Compliance Office, Bureau of Transportation and Safety  
 Pennsylvania Public Utility Commission  
 P. O. Box 3265  
 Harrisburg, PA 17105-3265

Upon receipt of the evidence of insurance from your insurer, the Complaint proceeding shall be closed. *Acord Certificates of Insurance and Faxed Form Es and Hs are Unacceptable as Evidence of Insurance.*

D. If you file an Answer which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty, which may include the cancellation of your Certificate of Public Convenience. Should the Commission cancel your Certificate of Public Convenience, it may also impose an additional fine of up to \$1,000.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. Alternative formats of this material are available, for persons with disabilities, by contacting the Compliance Office at (717) 787-1227.

*Pennsylvania Public Utility Commission, Bureau of Transportation and Safety V. WM. Rowen Grant Funeral Home; Doc. No. A-00095170C0701*

#### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That WM. Rowen Grant Funeral Home, respondent, maintains a principal place of business at 1920 Sansom Street, Philadelphia, PA 19103.

2. That respondent was issued a Certificate of Public Convenience by this Commission on June 20, 1969, at Application Docket No. A-00095170.

3. That respondent abandoned or discontinued service without having first filed an application with this Commission for abandonment or discontinuance of service. Respondent has reported receiving no intrastate revenue since at least prior to 1993.

4. That respondent, by failing to file an application with this Commission prior to abandoning or discontinuing service, violated 52 Pa. Code § 3.381(a)(1)(v) and 66 Pa.C.S. § 1102(a)(2) and, by failing to maintain adequate, efficient, and safe service and reasonable facilities, violated 66 Pa.C.S. § 1501.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission revoke respondent's Certificate of Public Convenience at A-00095170.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
 Motor Carrier Services & Enforcement Division  
 Bureau of Transportation and Safety  
 P. O. Box 3265  
 Harrisburg, PA 17105-3265

#### VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect that the Bureau will be able to prove same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

Wendy J. Keezel, Chief of Enforcement  
 Bureau of Motor Carrier Services and Enforcement  
 Division Bureau of Transportation and Safety

#### NOTICE

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

James J. McNulty, Secretary  
 Pennsylvania Public Utility Commission  
 P. O. Box 3265  
 Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty, which will include the revocation of your Certificate of Public Convenience.

C. If you file an answer which either admits or fails to deny the allegations of the complaint, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty, which may include the revocation of your Certificate of Public Convenience..

D. If you file an answer which contests the complaint, the matter will be assigned to an administrative law judge for hearing and decision.

E. Alternative formats of this material are available, for persons with disabilities, by contacting the Compliance Office at (717) 787-1227.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 07-2080. Filed for public inspection November 9, 2007, 9:00 a.m.]

### Sewer Service

**A-230172F2000. High Meadows Sewer Service, Inc.** Application of High Meadows Sewer, Inc., for approval of the abandonment or discontinuance of sewage service to the public in this Commonwealth.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities), on or before November 26, 2007. Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. to 4:30 p.m., Monday through Friday, and the applicant's business address

*Applicant:* High Meadows Sewer Service, Inc.  
*Through and by Counsel:* Lawrence P. Lutz, Esquire, Lutz and Pawk, The Morgan Center Building, 101 East Diamond Street, Suite 102, Butler, PA 16001.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 07-2081. Filed for public inspection November 9, 2007, 9:00 a.m.]

### Telecommunications

**A-311461F7000. Verizon Pennsylvania, Inc. and Peerless Network of Pennsylvania, LLC.** Joint petition of Verizon Pennsylvania, Inc. and Peerless Network of Pennsylvania, LLC for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania, Inc. and Peerless Network of Pennsylvania, LLC, by its counsel, filed on October 29, 2007, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon Pennsylvania, Inc. and Peerless Network of Pennsylvania, LLC joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 07-2082. Filed for public inspection November 9, 2007, 9:00 a.m.]

